

CHARTER COMMISSION

March 26, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The Clerk called the roll.

Present: Leona Dykstra, Bob Shaw, Donna Soucy, Brad Cook, Patrick Duffy,
Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Chairman Dykstra addressed item 3 on the agenda:

. Minutes of meeting held March 19, 2003.

Chairman Dykstra stated we just received them tonight. What is your pleasure?

On motion of Commissioner Cook, duly seconded by Commissioner Soucy, it was voted to table the March 19, 2003 minutes.

Chairman Dykstra addressed item 4 on the agenda:

Minutes of meeting held March 5, 2003.
(Tabled 3/12/2003 pending review by members).

On motion of Commissioner Pepino, duly seconded by Commissioner Soucy, it was voted to remove the item from the table.

On motion of Commissioner Pepino, duly seconded by Commissioner Cook, it was voted to accept the March 5, 2003 minutes.

Chairman Dykstra addressed item 5 on the agenda:

Language regarding Section 6.11 Finance Officer.

Chairman Dykstra stated on this here, I'm going to ask for a motion to remove this. We have already done this, so the Clerk suggested we just kind of get rid of it in a way, so I'm going to ask for a motion to remove this off the table.

On motion of Commissioner Duffy, duly seconded by Commissioner Pepino, it was voted to remove the item from the table.

On motion of Commissioner Shaw, duly seconded by Commissioner Duffy, it was voted to receive and file language regarding Section 6.11 Finance Officer.

Chairman Dykstra addressed item 6 on the agenda:

Language regarding Section 6.13 Biennial budgeting.
(Commissioner Hirschmann's request – tabled pending further drafting.)

Deputy Clerk Johnson stated we suggest that you hold item 6 until the next meeting, until we can get our language. It's downstairs at this point.

Chairman Dykstra stated we don't have all that information, so number six will be held off till the next meeting.

Commissioner Pepino stated we're almost done here.

Chairman Dykstra stated no, we're not. We know where we left off in here, so we're going to continue on this, but before that, we had asked Carol to bring back information in certain parts of this as we were going through it, like the expenditures and things like that. We'll go through that, just so we can get up to where we ended which was in budgets and appropriations.

Commissioner Pepino asked so seven is done.

Chairman Dykstra responded continued discussions, no we have to do that. We don't have any updates. We have this. That's what we're working on now, basically.

Deputy Clerk Johnson stated we actually highlighted the wrong thing on this item. It's the one beneath, expenditures that you had asked us to come back with. We had been requested to bring back the State law language on expenditure, and that's what this is. It was Commissioner Soucy that had asked us to do that.

Commissioner Pepino stated could I make a comment. How about, Keith, you're running for office, and the guy shakes your hand, and when he pulls his hand back and you look, you got a hundred dollar bill in there. How do you account for that? That's common you know, very common. How can you prove it's a contribution?

Chairman Dykstra stated we're talking about expenditures.

Deputy Clerk Johnson stated we're actually talking about this. I'm sorry, we highlighted the wrong one.

Commissioner Soucy stated I'd like to move at this time that we use the State definition of expenditure.

Commissioner Duffy duly seconded the motion.

Commissioner Shaw stated I just want to be sure that you promise somebody to pay them \$10,000 after the election. That's a promise to pay, right?

Chairman Dykstra responded this is State law, so I think it's safe to go by that.

Commissioner Shaw stated I just want to be sure.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Duffy stated Madame Chair, is this Section 5.34? Is that where you're replacing that language with the adopted language?

Chairman Dykstra responded 5.34, I think that's exactly what it is, yes. Would that be in d)?

Deputy Clerk Johnson stated 5.34 d).

Chairman Dykstra stated political campaign contributions, we are going to put that definition in.

Commissioner Cook stated no, that's expenditure.

Chairman Dykstra responded yes. So, we'll clear that up.

Deputy Clerk Johnson stated there was a question that was raised by I believe it was Commissioner Cook at the last meeting.

Chairman Dykstra stated we want to clear these up. Then, we'll continue from where we left off, so we'll stay in order. We want to be a little organized.

Deputy Clerk Johnson stated there was a question about that one-year residency issue on the Mayor. We did pull the law. "The Charter may require a period of

bona fide residency of up to one year for eligibility to run for office.” So filing for candidacy would be consistent with that.

Commissioner Cook responded thank you.

Chairman Dykstra stated so, we’re going to put that in.

Deputy Clerk Johnson responded it’s already in. There was a question as to whether or not...

Chairman Dykstra stated so we don’t need any action on that. I guess it’s already in there.

Commissioner Cook stated remember we said for somebody to file for office, it took a year, and I asked a question of whether that was for it. I wanted to make sure it was legal.

Chairman Dykstra stated that’s already in there, but he just wanted to backtrack.

Deputy Clerk Johnson stated now, this becomes the more complex one. Again, you want to take one and pass it down. That’s all a package.

Chairman Dykstra stated that’s just kind of clearing up some of the stuff we already did.

Deputy Clerk Johnson stated before you start proposing, I have a sample, so let’s try that. It says a lot of different things.

Commissioner Shaw stated it doesn’t say we can have a special election.

Commissioner Cook stated wait a minute. You’ve got two of them, so let’s look at both.

Deputy Clerk Johnson stated let me share this with you. I’m going to tell you the whole thing.

Chairman Dykstra asked what number does it come under.

Deputy Clerk Johnson responded this applies to a few different areas. At the last meeting, there was a discussion about vacancies, and the language that is presently proposed in the Charter, and then there was discussion about when we want to have elections for Alderman’s vacancies and the Mayor’s and so forth. And it was determined that in the instance of the Mayor that the Statute was very clear, that

no Alderman could serve in that capacity, and we made that change, so the Mayor's vacancy has been taken care of, I believe to date. The vacancy of the Aldermen and the School Committee members were the next two issues that you had to deal with, and we were asked to bring you all of the State laws, so that you could sort of compose your own. What I did is based on the different conversations that people were having on that is gave you some sample language that's consistent with the law that you can sort of adjust, because it appeared to me that from the discussion that people wanted the Board of Mayor and Aldermen to order a special election if was early on in the term. Under the State law, no matter what, there has to be an election at the next State or municipal election, whichever comes first. So, if you had a special election in January, they still have to come up for election in November. What we did is I put something in there, and you can play with this at your leisure, but the law first says you have to make under the Charter provisions until that State election or municipal election occurs. There has to be a provision in the Charter that says how you're going to fill the vacancy, so no matter what, somebody has got to either appoint it or you've got to have a special election.

Commissioner Cook stated right, so you can have either.

Deputy Clerk Johnson stated you don't want to have a special election or certainly the Clerk's office doesn't want to have a special election once your filing period has started for the next one or something like that, cause you've got to have basically about a 60 day window for an election to include a filing period. So, our suggestion is if you took and said, okay, if the vacancy occurs within the first so many days of the term of office, then a special election will be ordered. Now, you can change that from term of office to the first year of the term of office or the second year of the term of office if you wanted to cover your fall events, but I don't think that you want them to...what you're doing in the second part of this is allowing them to either appoint somebody or to order a special election if it occurs later in the year at their discretion. You're sort of leaving the Board's discretion at that point, but they got to do one or the other. They've got to fill the vacancy.

Chairman Dykstra stated that's the way they did it for the Aldermen. Wasn't it? They just elected him.

Deputy Clerk Johnson responded I'm not sure. You know, there are a lot of State statutes that have changed, and I really didn't go back.

Chairman Dykstra stated but I mean in our last Charter, I think that's what we had, that the Aldermen, if there's an Alderman vacancy, that they are just elected. Does that give any time frame?

Deputy Clerk Johnson stated the School Board members, I know the Aldermen appointed.

Chairman Dykstra stated they're appointed, but they had them separate. That's why I had wanted to keep them the same.

Deputy Clerk Johnson stated technically speaking, you had a situation that it was not provided for I don't think. I'm thinking of when Jim Clancy died. I think there was a section that really wasn't provided...yeah, they just left it vacant, and I don't think the law allows for that any more, the way it's written.

Commissioner Shaw stated I would like the Clerk to address what problem would 180 days cause because there's an election year. So what would the problem be with 180 days? In other words, not the first 90 days, but 180? Would that cause a problem?

Deputy Clerk Johnson responded 180 days is basically bringing you six months out into the term. Six months out into the term, we're into March.

Commissioner Shaw stated he'd have to die on the 180th day.

Deputy Clerk Johnson stated all it would do is say okay, they order an election...

Commissioner Shaw interjected no, we got to have the vacancy first.

Deputy Clerk Johnson responded right. Let's say the vacancy occurred within the first 180 days. You're talking about some time prior to the end of March.

Commissioner Hirschmann interjected it would be in May.

Commissioner Shaw stated oh, because it's November. We take office in November. That would be even better.

Deputy Clerk Johnson responded right. So within the first 180 days, that would be March. Let's walk that through for a minute. So you're saying the Board then has to order a special election for that vacancy. So let's presume it's a couple of weeks. Some time in the month of April, they order the election. We have a filing period, etc. to fill, so that's another 60 days out. Okay, so you're into May and June. Sometime in June, you're going to have an election. In September and November, you have to have another election.

Commissioner Shaw stated but if you had a vacancy because you found an Alderman no longer lived in the ward that he was in, and that happened on January 1st, that person would be allowed to stay in office for almost 11 months.

Commissioner Cook interjected they'd be out of office automatically.

Commissioner Shaw stated not him, but there'd be a vacancy for 11 months.

Deputy Clerk Johnson responded no, there would not. Not under this. What happens is, if you use this language, and use whatever you want. I was trying to give you something to work with here, but let's say you're using this, and you can change it to whatever days you want. If it was within the first 90 days, those first three months, they don't have a choice. They have to order special elections. Three months out.

Commissioner Shaw stated that would be February.

Deputy Clerk Johnson stated February, so the election would occur probably somewhere around the end of April, let's say. If it happened after the first 90 days, then the Board of Mayor and Aldermen could either fill the vacancy by appointment or they could order a special election if you wanted. You could say may fill the vacancy and take it that way if you wanted.

Commissioner Cook stated it seems to me that we have to have a consistent system. We can't have a system...I'm not overwhelmingly stuck on filling the vacancy by the Mayor and Aldermen or by the voters although I favor the voters, I think, but I don't think you can have a situation where you have a luck of the draw on whether the vacancy is filled by a voter or the Mayor and Aldermen depending on when the vacancy occurred because those are substantive differences, and my problem with the 90 day thing is that's one-eighth of a term. We've got four 90 day periods in a two-year term, obviously, and I don't think our concern ought to be hassles for the Clerk's office or expense of election if we go the election way. There are some periods of time when it becomes totally impractical to fill it. If it's during or after the filing period for the next municipal election which is I recall July of the odd-numbered year forward, then I think having a special election to fill something would be impractical and stupid because you'd be electing a special person and having somebody running for the full-time job, and that's crazy.

Deputy Clerk Johnson stated that's in essence what this does.

Commissioner Cook stated you're saying the first 90 days, and I don't think that's what this is doing because if it happens in the first year, that's four 90 day periods.

Commissioner Soucy interjected it's municipal or State election.

Deputy Clerk Johnson stated the State election would be in the first year of the term.

Commissioner Cook stated I'm talking about the vacancy. The term is two years. The term is a municipal term. The only thing that refers to a State or a municipal election is when an election is held and whether it's special. It is a special municipal election even if it's held at a regular State election because you don't usually have a municipal election then, so you're having a special election. You're just having it on the same date. I'm not talking about the timing. I'm talking about the language you have here seems to me to say only if the vacancy occurs during the first 90 days of a two year term will there be a special election to fill the term. I don't think that's right. I think we have to say, if we go with elections to fill vacancies which is fine, I think we have to come up with a time period that goes back from the regular election whether we say if it's within five months of either...you know, if it's within five months of the State election or a State primary election or whatever you want to say, it'll be held on that date for efficiency sake, that's fine. But, you know, it only happens if it happens in the first 90 days, I don't buy, but I do buy if we're at the beginning of the filing period or thereafter, you just wait, and just leave it vacant until then, I think.

Commissioner Shaw stated it's the 150 days that I like, but when you explained it at first, I thought whichever 90 days mattered, you know, 90 days after the State election or 90 days after the City election, a vacancy occurred. But you didn't say that.

Deputy Clerk Johnson responded no, I didn't. I mean, it could be stated that way.

Commissioner Shaw stated he corrected it, but I do favor five months.

Commissioner Hirschmann stated I have an idea. It's just something different and new. I want to throw it out to everyone. Federal offices have rules of succession, who's going to take a job if someone is incapacitated, you know. What I thought is like an Alderman is a ward officer, the highest ward officer. What if the moderator was his successor? If the Alderperson couldn't serve any longer, the ward moderator would be the succeeding person. That way, no one would have to be nominated, and there wouldn't have to be a special election until the next election. The Charter would say the ward moderator will succeed the Alderman, and nobody would have to play politics and take in thought of whether it's going to be a Republican or a Democrat or a boy or a girl or whatever.

Commissioner Shaw asked what if there was a vacancy in the moderator.

Commissioner Hirschmann responded then the next person down is the ward clerk.

Chairman Dykstra asked what if the moderator was the opposite party. Would that make a difference?

Commissioner Hirschmann stated I'm just throwing that out as an idea because there's ward officers.

Chairman Dykstra interjected I just like elections.

Commissioner Hirschmann stated I agree, but how many special elections are the taxpayers willing to pay for. There are vacancies all the time. John Kacavas just took a seat. Judy O'Brien Thayer took a seat. I mean, you could be having special elections that cost money.

Commissioner Cook stated but neither of them took their seat from an election.

Chairman Dykstra stated they were appointed.

Commissioner Hirschmann stated but I'm saying in the future if we put this provision...

Commissioner Cook stated if you tied it to...if you look at the electoral calendar that we have, every once in a while, you've got a Presidential primary. Always, every two years, you have in the even-numbered year a State primary and a State general election, and then in the odd-numbered year, you have a City primary and a City general election. So if we tied somehow the election of these people to the next available election, whatever it was...

Deputy Clerk Johnson interjected that's what I thought pretty much we were doing here.

Commissioner Pepino stated nothing wrong with that.

Commissioner Cook stated well, I didn't get that from that. If that's what you're trying to do, then we're all talking in the same direction.

Commissioner Hirschmann stated we're talking about having a different person.

Commissioner Cook stated you're always close enough to one of them that your interim isn't going to be that long a period of time.

Commissioner Shaw stated it allows them to do it.

Commissioner Hirschmann stated she said you can't leave it vacant.

Commissioner Cook responded well, you can leave it vacant until the next election.

Deputy Clerk Johnson stated no you can't, not by law. By law, the Charter has to provide...

Commissioner Cook interjected the Charter provides when you're going to fill it. You're going to fill it at the next available election.

Chairman Dykstra asked does it say immediately.

Commissioner Hirschmann stated the moderator will be the pro tem.

Commissioner Pepino stated that's what it says here. The Charter shall provide a procedure for filling vacancies.

Deputy Clerk Johnson stated "The Charter shall provide a procedure for filling vacancies in the office of Mayor, Alderman, and Councilors until the next municipal or State general election at which time an election shall be held for the unexpired term." This law clearly states you have to have a provision in the Charter for that interim period.

Chairman Dykstra stated okay, but if a person leaves, I mean, you're still going to need time to set up an election, so it's going to be vacant for a while.

Commissioner Shaw stated no. The Board appoints somebody.

Chairman Dykstra stated and then that person has a leg up.

Commissioner Hirschmann stated if the Charter said who was to fill that seat, you wouldn't have to worry about it.

Commissioner Pepino stated if it wouldn't be too far in advance, I'd make a motion that we adopt 49-C:10.

Deputy Clerk Johnson stated you can't do that. That tells you you have to do something.

Chairman Dykstra stated it just tells you how to do it. We have to do it.

Deputy Clerk Johnson stated you have to do something. Either you've got to appoint somebody or you've got to have an election.

Commissioner Pepino stated all right. So we cross off the 49-C:10. We set a procedure here, and we adopt the rest of it. What's wrong with that? Same thing. Just what Brad said.

Commissioner Shaw stated I favor Brad Cook's suggestions, but I would make it five months. I think he said that even in his thoughts. It's not 90 days, but it's five months from the beginning of each year.

Chairman Dykstra stated so you're talking about having someone appointed for that time.

Deputy Clerk Johnson stated so you're saying five months.

Commissioner Shaw responded five months, so starting November 20th which is making believe, all right, you have five months into it, okay, you have to order a special election.

Deputy Clerk Johnson stated okay, so your election will be held after the filing period for the November election. You understand that?

Commissioner Shaw stated I'm just going to 60 days longer than yours. There's no reason for that.

Commissioner Duffy stated we've had a significant amount of discussion on this, and it seems that we ought to simplify it somewhat. I move that we adopt the proposed language and that with a simple modification in b) of changing shall to may and that we adopt this as our language for whatever section it goes into. Section five, someplace or other.

Commissioner Shaw stated I thought they had to fill.

Commissioner Hirschmann stated by law, it notes that they shall.

Deputy Clerk Johnson asked do you want to say within the first 90 days of the first and second years of the term because it would come out the same.

Commissioner Duffy responded of the term. Of the term, just as it says.

Deputy Clerk Johnson stated okay, just at the beginning. Okay. He's changing shall to may. You are providing for something this way.

Commissioner Shaw asked what about the second year.

Deputy Clerk Johnson stated it's saying that you have to order one.

Chairman Dykstra stated so we are still putting a procedure together.

Deputy Clerk Johnson stated you're putting a procedure in.

Chairman Dykstra asked does everybody understand what was done there. The shall was turned to may in b), so that it gives them the option.

Commissioner Hirschmann stated I like shall better.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra stated motion made by Commissioner Duffy, seconded by Commissioner Tessier to change shall in section b) to may fill the vacancy. That means they may not too.

Commissioner Soucy stated I think there's still one problem with the language, and that's the use of the word term. If a vacancy occurs, that presumes that it's within the first 90 days of the first year.

Deputy Clerk Johnson responded right. That's why I asked for clarification to make sure that's what he wanted. That's his motion, and I would note after municipal, I will insert general election because I missed that one. That was out of the State law, and I missed that.

Commissioner Shaw asked when the word may instead of shall is substituted for that, does that mean that the Aldermen wouldn't have to fill it if they didn't want to.

Chairman Dykstra responded that's the way I see it. They may or may not.

Commissioner Shaw asked doesn't the State law require that they shall do.

Chairman Dykstra stated just shall have a procedure, shall provide a procedure.

Commissioner Shaw asked is that all it is. All it is is a procedure?

Chairman Dykstra stated but this way here, if you're interested in making it an election, they have the option not to have an election.

Deputy Clerk Johnson stated the may gives them the option.

Commissioner Shaw stated I thought shall means they have to do it.

Deputy Clerk Johnson responded they have to do something, but the may gives them an option to do it either way after 90 days, but they can.

Commissioner Cook stated the rationale for the 90 days was it's at the get-go, and therefore there's a long enough period of time that...

Deputy Clerk Johnson interjected having an election, you have somebody elected before the filing period begins for the next cycle.

Commissioner Cook stated that's not going to happen. If it's in the first 90 days, it could be a year and a half before the next filing period for the next cycle.

Deputy Clerk Johnson responded no because under the State law, you would have to go to the State general in November.

Commissioner Cook stated oh, the State cycle.

Commissioner Duffy stated it says State or municipal.

Chairman Dykstra stated it's in the Charter for the Aldermen. I don't understand why we can't use the same language. Where was that?

Commissioner Cook asked in b), shouldn't it say at the end of b), and I agree with you, the State or municipal general election should be inserted because that's the law, but at the end of it, shouldn't it say for completeness at which the special election shall be held to fill the vacancy, at the end of b).

Deputy Clerk Johnson responded I mean you can, but you don't have to. If it's a municipal election, they would take office immediately.

Commissioner Cook stated it's appointment until an election, and at the election, I think for completeness, this ought to say at the election, it will be filled by the voters because that just says how long the appointment lasts. I mean, it's implied for sure.

Deputy Clerk Johnson stated I had other language. Here's what the Solicitor had drafted up. It said, "If said election is a municipal election, the successful candidate for the office shall fill the unexpired term in addition to the term for which the candidate was elected."

Commissioner Cook stated that means from the primary and for two weeks thereof.

Deputy Clerk Johnson stated "If said election is a State general election, the election shall be for the unexpired term." So you're identifying in each case what the situation would be. That was nice, clear language which we handed out at the last meeting.

Commissioner Cook interjected wait a minute, but doesn't that mean...I'm just trying to think this through because all of this is hitting us fast...if the candidate is elected at the primary because there is a vacancy and serves for the remainder of the term and for the next term, that means you're filling the general election's capacity at the primary for that office and not for every other office.

Deputy Clerk Johnson stated I'm sorry. Say it again.

Commissioner Cook stated if I heard what you said the Solicitor wrote properly, if it's filled at the primary...

Deputy Clerk Johnson responded not the primary. The primary does not constitute...

Commissioner Cook stated so it's the general. So that person gets two extra weeks under this Charter.

Deputy Clerk Johnson stated what was written up prior but then with the discussion here, this didn't meet the criteria. What we had done up originally based on the first discussion you people had, it was, "Should a vacancy occur in the office of" you had Mayor at the original "Board of Aldermen, the Board of Aldermen shall fill said vacancy until the next municipal or State general election at which time an election shall be held." Okay, so that clears up your special election. "If said election is a State general election, the election shall be for the unexpired term. If said election is a municipal election, the successful candidate for the office shall fill the unexpired term in addition to the term to which the candidate was elected." So you're not running in essence two and have two different people elected on the same day. In theory, it could happen. The language for the Board of the School Committee was the same except it was that the Board of School Committee would fill it until the next vacancy because that in

essence had been some of the discussion to allow the School Board to pick their own person for School Board, which we haven't discussed here at all.

Chairman Dykstra stated but the Aldermen used to pick the School Committee person.

Deputy Clerk Johnson responded yes, they did, but the discussion here at the table had been for the School Committee to pick their own, and that's what this was drafted based on.

Commissioner Hirschmann stated I don't remember that.

Deputy Clerk Johnson responded it was a long time ago.

Chairman Dykstra stated what I don't understand is what we had in last time, in 2.05. "Should a vacancy occur in the office of Alderman, the remaining members shall call a special election in the ward in which the vacancy shall have occurred to fill the vacancy." We could just add in, you know, School Committee person at the same time.

Deputy Clerk Johnson responded yes, except this doesn't take into account the State law that says then you're going to have another election in November. That was the problem.

Commissioner Duffy stated rather than calling for the vote, I'm going to withdraw my, if I can get whoever seconded it, I think Nancy did, withdraw my motion, and ask the Clerk to draft new language for us.

Deputy Clerk Johnson asked for direction for the language to be drafted.

Commissioner Tessier withdrew her second to the motion.

Commissioner Duffy asked do you want more direction. I think you've got quite a bit of direction on this already, Carol.

Deputy Clerk Johnson stated I don't know whether I have any consensus from anybody. I have one that wants a moderator and one that wants...

Commissioner Shaw stated why don't we just do what the Clerk wanted here and do what Brad wanted and that is take out the word term and substitute it for 90 days at the beginning of each year type of thing. Aldermen have two year terms. The first term would expire, if it started on November 20th, it would start again on the next November 20th. I think the intent is in the second year, you have a 90 day

window when the Aldermen should have an election, if that's what your intent was. Not 90 days from just the beginning of the whole term. See, term to us doesn't necessarily mean, or me anyway, two years. It means a year and a year equals two years.

Deputy Clerk Johnson stated I mean you could move the 90 to 120 days if you wanted to.

Commissioner Shaw stated no, but that's not what his intent was. That's what the direction that she needs to get is that Brad's intent was that there are two 90 day windows. Was that your intent? One at the beginning of the term and one in the middle of the term.

Chairman Dykstra asked Brad, is there any language within this here that you feel that you could add to this to take care of what your thought was.

Commissioner Cook stated I think we have a lot of ideas floating around. I think the Clerk has been very helpful in pointing out to us that we have two election cycles that we have available to us to fill things, that we shouldn't have special elections so close that we're just wasting money and time for sure. The concept of filling the vacancy before you can have a general election which appears to be implied by 49-C:10 is fine. I don't think it's a good idea on most occasions or any occasion for that matter for a Board to fill its own Board's vacancies. I think that's not a good idea. I probably would trust the School Board to put a person on the School Board more than I trust the Aldermen, but I don't think it's a good matter of political theory. I think somebody else ought to do it. In a City, the Aldermen are the legislative body for the School Board, so if somebody is going to appoint a School Board member, I think it ought to be the Aldermen and not the School Board because it's not the same group. It's not as incestuous. By the same token, I don't think Aldermen ought to be filling Aldermen, but somebody has to do it, and they're the only people there to do it.

Commissioner Hirschmann asked the Mayor.

Commissioner Shaw responded well, I don't know.

Deputy Clerk Johnson stated the Mayor is part of the Board.

Commissioner Cook stated I'm only addressing the School Board issue, you know. As much as it tempts me to say, "Yeah, let the School Board do it," I'm not sure that's a good idea. There's symmetry there, but I'm not sure, there's logic. But the election thing, I think the guidance is, from me only, we want to have appointed people serve for as short a time as possible. We want to have elected

people serve whenever possible for both bodies, and we want to minimize without wrecking the whole process to only minimize expenses. So I think what Commissioner Shaw said is what I get from that. If it's in the first 90 days of the first year of the term or within 90 days of the second year of the term, you'd have a special election. Any other time, you'd key to the elections you have, and in my opinion only, the Board of Mayor and Aldermen would fill the job for the period of time going into. I have a grave concern that we have gotten into a system by tradition and not by law in Manchester that the Alderman from a ward gets to dictate who the School Board member from that ward is going to be and not everybody has an equal shot at it because very frankly I'm not sure that's what people intended when they elected an Alderman. I don't know how you solve that. I'm not sure I want to handcuff people, but I think that's a lousy precedent frankly.

Deputy Clerk Johnson stated the suggestion I would have for that is that the last Charter that was written put provisions in there for people being able to apply for positions on boards and commissions. You have also the Human Resources Department. The Board of Mayor and Aldermen could adopt, it could be through the Charter...told they need to adopt an ordinance to establish a procedure to allow the public of that ward to apply to the Board or to the Mayor for appointment.

Commissioner Cook stated but that's already in the Charter, and that's not what happened, cause we've had it happen several times under this Charter.

Deputy Clerk Johnson responded but that's boards and commissions, they do.

Commissioner Cook stated but the tradition and I'm respectful of tradition...

Deputy Clerk Johnson interjected that's not considered part of the Mayor's appointments.

Commissioner Cook stated no, it clearly isn't part of the Mayor's appointments, and I'm not sure that's a good idea either, but I'm just raising an additional concern. I'm not sure that ties into this particular provision. I'm just getting them all out at the same time.

Commissioner Tessier stated I think that's very important that that be addressed, that the tradition part be taken out so that people specifically know how the appointment is going to work, so that it's very clear in the Charter.

Commissioner Pepino stated look at the last appointment that we had on the School Board, like Brad said, on the School Board. The Alderman appointed her son-in-law.

Commissioner Cook stated that wasn't the last one. He's been elected twice since then. The last one was Kacavas.

Commissioner Tessier stated and Ward 2.

Commissioner Cook stated but I have to say in the Ward 2 situation, the Alderman asked for people...he made it known in his ward, and the person certainly has to come from the ward.

Commissioner Shaw asked why.

Deputy Clerk Johnson stated that's the law.

Commissioner Cook stated because the School Board member has to be from the ward in question.

Commissioner Shaw stated I thought that was an At Large seat.

Commissioner Cook responded but it wasn't an At Large seat. We're talking about the Ward 2 seat.

Commissioner Duffy stated Madame Chair, rather than debating what did occur or didn't occur, can we move on this, and I had recommended that the City Clerk again take the guidance that's been received this evening and redraft this provision and maybe present us with a couple options.

Chairman Dykstra stated Brad, if you wanted to bring forth something next week...

Commissioner Cook stated obviously I could work with the Clerk.

Deputy Clerk Johnson stated and then we want a procedure for no tradition. I'll know what that is.

Chairman Dykstra stated you could probably confer with Brad on that. Everybody seems to like his idea.

Commissioner Hirschmann stated Madame Chairman, for the record, what I was going to state is that Alderman Gatsas asked the Charter Commission at one point in the newspaper to address that because he didn't want to have to do that again.

Chairman Dykstra responded well, he did it anyway, so it doesn't matter, but I like elections.

Commissioner Duffy stated he asked us through the newspaper, is that what I understand.

Chairman Dykstra stated let Carol move on to the other things we need to address.

Deputy Clerk Johnson stated in starting to put together the first sections of the Charter based on your actions at the last meeting, I have two questions that I basically would like to raise. First of all, there was a change in declaration of results in terms of the recounts, and rather than saying two days, now that you're saying in terms of declarations, we'd like to make it very clear for those that want to file for recount, I would like to have the verbiage read 48 hours rather than two days because usually we release it at noon the next day, and then people are going to say, "Well, two days. That gives me really three." And there's going to be a question about it.

Commissioner Soucy so moved.

Commissioner Hirschmann duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson stated the other question I have, and this may be a little more touchy, and we can come back to it another time, but in the Board of Assessors, you've put the Assessors as being an appointive position because you designated a difference in it from other departments. The Chairman of that is considered a department head, so there is a procedure there for removal the same as department heads. You did not establish that as part of the other two positions, and my question is whether or not that might have been an intent that it would follow the same removal procedures as a department head, even though they're not.

Commissioner Shaw asked do you think the intent was that any one of the three should be removed by the Aldermen and the Mayor. We didn't say it.

Commissioner Cook stated I guess the question is do they get removed under the...

Deputy Clerk Johnson interjected same provision as a department head.

Commissioner Cook stated department head provision or under the officer of the City provision since we didn't designate them as officers.

Commissioner Shaw stated I favor department head.

Deputy Clerk Johnson stated right now, the Chairman would automatically follow the department head because he's been identified as a department head, but the other two are in nowhere's land.

Commissioner Cook stated last time we called them officers, and this time, we didn't call them officers, so they're not removable.

Deputy Clerk Johnson responded right. You have a procedure to appoint them. You do not have a procedure to remove them.

Commissioner Cook asked do we have a procedure to remove members of other boards and commissions.

Deputy Clerk Johnson responded not yet. That was going to come to you next meeting, cause I'm going to bring you back that language. It's missing a lot of stuff, so I was going to plug in things for you.

Commissioner Cook stated it depends what we classify them as, I guess.

Commissioner Shaw stated I would move that unless otherwise provided for, those nominated by the Mayor and approved by the Aldermen would have the same procedure for removal. So if I appointed the Airport Commission, there would be a procedure in my opinion since the Mayor and the Aldermen made those appointments, a procedure for the removal of a person. That's a thought. I'm not saying it's the best thought. So that covers the assessors. On those nominations made by the Mayor, approved by the Aldermen, the same procedure would apply for removal. He doesn't appoint the Deputy City Clerk. He could not remove the Deputy City Clerk, only the appointments made by the Mayor and the Aldermen could be terminated by the Mayor and the Aldermen. Assistant Finance Director is not appointed by the Mayor. He cannot remove the Assistant Finance Director. Assistant Highway Department head, he doesn't make those appointments. It would just seem to be easy language.

Chairman Dykstra asked was there a motion.

Commissioner Cook stated he said, "I move."

Chairman Dykstra asked what did he move.

Commissioner Shaw responded I gave her what I said.

Commissioner Hirschmann stated at the last meeting, just a point, we argued for a half an hour whether it was going to be seven or eight people for department heads and officers.

Commissioner Shaw stated we went to eight.

Deputy Clerk Johnson stated right, you did, but this isn't what this is. The other two assessors don't fall in that category.

Commissioner Cook stated we didn't make the other two assessors officers.

Commissioner Hirschmann stated the other two assessors in the new Charter are employees of the department head.

Commissioner Shaw stated no. We didn't make it that way.

Deputy Clerk Johnson stated no, they're not.

Commissioner Cook stated I think her point is we didn't say a lot of things, so we have to classify these people somehow.

Deputy Clerk Johnson responded that's your other option. Your other option is to say removal shall be through the department head.

Chairman Dykstra stated I think that would probably be good.

Commissioner Soucy stated I think there's a distinction between appointment of an Arts Commissioner or a Heritage Commissioner and how you would remove that individual who serves as a volunteer on a board than how you would remove a full-time quasi-department head of the City.

Commissioner Shaw stated the rationale for the assessor not appointing the two deputy assessors or whatever they were to be called was the fact that they also meet as a board to decide the assessment of a citizen who appeals to them. It is possible for the department head to become disenchanted with somebody that he has control over and therefore, you know, make life miserable where we said that

the assessors should be appointed by the Board of Mayor and Aldermen. That was our choice the last time.

Commissioner Cook stated I think the issue is fairly simple, and we're making it more complicated than it is. If I'm not wrong, the Clerk's point is in the last Charter with all of the provisions we had about the three assessors, it was clear that the three assessors were officers of the City. Therefore, they could only be dealt with as we dealt with officers of the City. The confusion came about the one who was a department head, the duality of purpose of department head and officer as in the Finance Officer being a department head, but he didn't have two others, and I think Carol's point is this. We have not classified these other two people who are appointed by the Mayor and confirmed by the Aldermen and serve as a quasi-judicial board to make decisions. You can't have them fireable by the person who may disagree with their quasi-judicial decision on a case. How do we get rid of them, if at all? Do we get rid of them by the whatever number of votes we said officers can be removed by? Do we get rid of them by the number of votes that we said we got rid of department heads by? Or do we get rid of them by the same mechanism that we have not yet voted on, I guess, to get rid of members of boards and commissions, and they have to be classified some place. Isn't that the point?

Chairman Dykstra stated I'd like to see them treated equally, you know really, the same as department heads.

Deputy Clerk Johnson stated you have one assessor now who would be removed by the same procedure as department heads. You have two other assessors who are appointed in the same way, but there's no provision to remove them. My presumption was that you probably would just say removable consistent with provisions of Section 3.19 or whatever it is for department heads' removal, but I didn't want to put it in there without this Commission voting on it.

Commissioner Shaw stated that's what I said.

Commissioner Soucy stated I would move that we adopt the same language the removal of department heads for the two assessors that are not designated department head.

Commissioner Tessier duly seconded the motion.

Commissioner Hirschmann stated it's going to be stipulated that they are not department heads.

Deputy Clerk Johnson responded they were just subject to those provisions of that section.

Chairman Dykstra stated you should treat them equally that way.

Commission Cook stated the removal procedure would be the same.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Hirschmann stated the Planning Board is a judicial board. How do we remove them?

Deputy Clerk Johnson responded you had a process for that before. What I intend to do because there's some confusion about where you're at with commissions, I'm going to take all of those sections, sort of rewrite them, bring them back to you in a format that it'll cover hopefully everything. You've got to have transitional provisions to continue people on anyway, so it'll probably be a meeting or two before I get there. I'm not talking about the departmental ones that are not there any more. I'm talking about all the others that are still in existence, like Board of Health was mentioned last time. In reality, rather than listing them, they'd be just as well to stay where they are then we put in a constituting provision because you have the Planning Board and some others. I'm going to work with that and bring it back to you. Then you can take it home and read it.

Chairman Dykstra asked anything else.

Deputy Clerk Johnson stated I think we're ready to move on to Article VI.

Chairman Dykstra addressed item seven on the agenda:

Continued discussion and actions regarding the 2003 proposed Charter.
(Note: Reports and updates from Clerk will be distributed, if available.)

Commissioner Duffy stated Madame Chair, my notes have it that we are at Section 5.35. That's where we left off.

Deputy Clerk Johnson stated state election laws, yes. 5.35 through 5.37 was not previously acted upon by the Commission. This language stays unless somebody moves to amend it in some fashion, and I don't know if you want to see if anybody wants to amend 5.35.

Chairman Dykstra stated we've already voted for this document. So it stays unless we change it, right?

Commissioner Hirschmann stated I'll move to accept it.

Chairman Dykstra responded we don't have to. It's already accepted. We've accepted the document. Okay, that's done, so we're just going to keep moving on until you want to make a change.

Deputy Clerk Johnson stated 5.35, 5.36, and 5.37.

Commissioner Duffy stated I just want to comment on 5.38 since I assume we're all set on those previous sections that the language here is in my way of thinking much improved over listing all of the wards by streets and so on, so I do agree that this an effective way of identifying the wards until such time they get changed by law.

Chairman Dykstra stated so no one has a problem with this then.

Commissioner Cook stated I guess my question is whether the Clerk has a problem with it because when we had our discussion before about the ward boundaries being included in the Charter, either in the Charter or as an appendix, I believe the Clerk's office said they preferred to have...nobody disagrees with the intent here.

Commissioner Hirschmann stated it was supposed to be an appendix.

Chairman Dykstra stated I thought it was supposed to be an appendix.

Deputy Clerk Johnson responded no, that's not the action that the Commission has taken.

Commissioner Cook stated that wasn't the question. My question wasn't was that the action of the committee. The question was whether the Clerk's office recommended that we had it because my understanding before was we tried to do this, and we got advice that it had to either be in the Charter or as an appendix.

Chairman Dykstra stated I think you're right.

Deputy Clerk Johnson responded our office's discussion with the Secretary of State's office with regards to these is that if you do not specifically give the boundaries of your wards in your Charter that the State at any point and time, the State Legislature can change your boundaries because that is law. I mean, if you say until they are changed by the law, the State law is a law, and they can change it. If you had a situation where you're doing anything in the community, there is a

question as to whether or not the Aldermen could change without going to the voters your ward boundaries.

Commissioner Hirschmann stated I have a good memory. I'm sorry. We had the Solicitor sitting in that chair for a half an hour coming up and telling us that it should be listed as an appendix, for the reason that you're stating so that it can't be changed.

Chairman Dykstra stated and he said it still would be part of the Charter.

Commissioner Hirschmann stated it's in the January minutes if you look.

Deputy Clerk Johnson stated let me just continue with that thought process because since that time, our City Solicitor...

Commissioner Hirschmann asked he changed his mind and didn't tell us.

Deputy Clerk Johnson responded Deputy Solicitor Arnold gave us this language and stated that that would cover it, and my question to him was does that mean that the Aldermen could still change it by ordinance, to say they're going to change it because an ordinance is a law. His reply was, "We'll cross that bridge when we get to it" basically. So, the intent would be that it go to the voters, but he's not sure in a court of law where it would stand is basically I think what he's saying.

Commissioner Hirschmann asked instead of change by law could we amend it to say change by referendum.

Deputy Clerk Johnson stated or Charter revision.

Commissioner Shaw asked what if it fails, that the Supreme Court says...

Commissioner Hirschmann responded then it stays the same.

Commissioner Cook stated if the Supreme Court says it's going to change, that's law, but I think the Clerk's point, I think the way to solve this problem is twofold. One is changed by municipal process, and the second part is to say presently constituted as set forth in the appendix attached hereto, and I think those two things will make it clear that...and I like this better. I mean I agree with Commissioner Duffy. I like this better. It's simple. It's short. We don't have umpteen pages with you know, go up Union Street and take a left, but that seems to be what's required to keep local control over what the wards are going to be sacrosanct. I think we agreed before, and I think what Commissioner Hirschmann

is saying, and I agree with it, is let's put it in an appendix. Let's do what we can to keep local control over what our wards are going to be local, but let's not junk up the body of the document, unless I'm misstating something.

Chairman Dykstra stated so you support having the appendix.

Commissioner Cook responded yes.

Deputy Clerk Johnson stated you could have it as an appendix at the end.

Commissioner Cook stated put it as an appendix, but not say changed by law but changed by municipal process.

Commissioner Hirschmann stated it could be an ordinance.

Commissioner Cook stated I don't care. Whatever the municipal process is for changing...

Chairman Dykstra stated an ordinance is a law anyway in the City. Okay, so are you making a motion to change that?

Commissioner Cook stated I would make that motion.

Commissioner Wihby duly seconded the motion.

Deputy Clerk Johnson stated can we just have him read off exactly how you want that to read.

Commissioner Cook responded the City shall be divided in 12 wards, which will remain as presently constituted and set forth in the appendix whatever it is.

Commissioner Duffy interjected A.

Commissioner Cook stated A, if it's A, until such time as they are changed by...

Chairman Dykstra interjected municipal, what did you say, procedure.

Commissioner Cook stated I said municipal procedure. I would say that, but if the Clerk's office has a better way of saying it. There's a process for changing the ward lines after the decennial census.

Commissioner Hirschmann asked how about State law.

Chairman Dykstra responded no. Then, you've got the State involved.

Commissioner Cook stated no, you don't want State law. No, because then the Legislature can set the State law.

Deputy Clerk Johnson stated right now, you have to go to referendum, so in essence you would say unless they are changed by referendum or Charter revision.

Commissioner Cook stated changed my amendment hereto.

Deputy Clerk Johnson stated changed by amendment hereto will work as well.

Commissioner Cook asked isn't that what the referendum does. It passes an amendment.

Chairman Dykstra responded it's an amendment, yeah, so it can be amended at any time anyway.

Commissioner Cook stated so they'll know, every ten years when you have a census, you have a commission that works on the wards, and they come up with something, and it gets passed, and then you vote on it.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson asked that was Commissioner Cook by whom.

Chairman Dykstra stated Commissioner Cook by Wihby. Okay, so we're moving right along here.

Deputy Clerk Johnson stated 5.39.

Chairman Dykstra asked everything all set with 5.39, Commissioners.

Deputy Clerk Johnson stated that hadn't been previously acted upon.

Commissioner Hirschmann stated make sure they pay a fee, that's all.

Deputy Clerk Johnson responded yes, that's covered. And now we're on Article VI.

Chairman Dykstra stated budgets and appropriations.

Deputy Clerk Johnson stated 6.01 through 6.03 had not previously been acted upon, and this is the language that you've now adopted.

Chairman Dykstra stated we've adopted this. Any changes in this at all?

Commissioner Hirschmann asked all the stricken language, is that from 1996, or it that from 1982.

Commissioner Cook responded 1982 was stricken, and this was added, but this is stuff we already acted on, I believe. We already passed this stuff, I think.

Chairman Dykstra asked was all of this from 1982. Was this the 1982 plus the changes?

Deputy Clerk Johnson responded that actually is the 1996 Charter except for a piece that's underlined.

Chairman Dykstra stated so that's the 1996 Charter. That's what we just passed in 1996 plus we're adding second Tuesday in January for submitting the budget.

Deputy Clerk Johnson responded that was changed.

Chairman Dykstra stated so this is the new Charter.

Deputy Clerk Johnson responded for 6.01, 6.02, 6.03.

Chairman Dykstra stated all that's the same except the time.

Deputy Clerk Johnson stated that's all from the 1996 Charter with the exception of that second Tuesday in January.

Chairman Dykstra stated budget adoption, adoption. Well, we did make a change there on the adoption. I have no problem with that.

Deputy Clerk Johnson stated you're ahead. I think some people are still looking and trying to decide.

Commissioner Hirschmann asked could we move on sections.

Chairman Dykstra responded you don't have to move it. It's already in there. Only if you want to make a change, you can amend it.

Deputy Clerk Johnson stated so 6.01. Are we all set on 6.01? 6.02?

Commissioner Duffy responded yes.

Deputy Clerk Johnson stated and then 6.03.

Commissioner Duffy responded yes, with that modification.

Deputy Clerk Johnson stated 6.04, I can tell you what some differences are between what you had adopted before and what you now have. The notice and hearing and amendment before adoption was the same. Working document in Section c) calls for both adoptions by the first Tuesday in April. The Commission originally had approved March 31st for School and June for the balance.

Commissioner Shaw interjected that's because they meet the first Tuesday in April.

Deputy Clerk Johnson stated the Finance Officer had had a problem with having two different dates, so this changes it to both of them at the same time.

Chairman Dykstra stated and the school is in another part.

Deputy Clerk Johnson stated then in Section d) below it, there was seven votes of the Aldermen. That's what had been approved.

Chairman Dykstra stated that was the fallback we wanted.

Commissioner Hirschmann asked where's the school budget.

Chairman Dykstra asked the school, is that somewhere else.

Commissioner Cook responded that's way farther along.

Chairman Dykstra stated that's in another area, but it's the same, first Tuesday in April.

Commissioner Cook stated 6.06 was what was passed by the citizens.

Deputy Clerk Johnson stated the fallback provisions, obviously if it's underlined, that was new language that's been added. I just figured that was pretty obvious. This one calls for seven votes rather than...

Chairman Dykstra interjected a majority, yeah.

Deputy Clerk Johnson stated and Board of Mayor and Aldermen is six votes. If you use Board of Mayor and Aldermen, there's a difference because Board of Mayor and Aldermen is six votes of Aldermen and the Mayor.

Chairman Dykstra stated he's the one presenting it, and he can still veto.

Deputy Clerk Johnson stated no, but we're saying to pass it.

Chairman Dykstra stated oh, to pass it. Okay.

Deputy Clerk Johnson stated so this vote is a vote of the majority of Aldermen elected.

Commissioner Shaw asked which one is that.

Deputy Clerk Johnson stated we're in a), b), c).

Chairman Dykstra stated c), the adoption.

Commissioner Shaw asked the adoption requires eight votes.

Chairman Dykstra responded seven, majority.

Commissioner Shaw responded a majority of the Aldermen elected.

Chairman Dykstra stated that's what you put in there.

Deputy Clerk Johnson stated seven, seven Aldermen.

Chairman Dykstra stated you put that in there, didn't you.

Deputy Clerk Johnson stated he did.

Commissioner Shaw asked five Alderman can't hold the budget up. If there are five Aldermen against the budget and seven for it, the budget passes, right?

Commissioner Hirschmann stated say that again.

Commissioner Shaw stated five Aldermen are against the budget. Seven are for the budget. The budget passes, subject to the Mayor's veto.

Deputy Clerk Johnson responded right.

Commissioner Cook stated then it takes eight.

Deputy Clerk Johnson stated the other is the fallback provision is outlined in d). Sections 6.05 to 6.10, you hadn't taken any actions to date. 6.05 is basically all coming out of the 1996 Charter except for e). You get to budget reconsideration. That's taking some of your old provisions, and the one thing that I would add to that is that in front of where it says underlined "of the fiscal year for which the appropriation of funds apply", I left out the word "start". It should be "start of the fiscal year for which the appropriation of funds apply". That's just a typographical.

Commissioner Shaw stated in the new Charter, they had a provision I just want to bring to people's attention that you know, maybe people want it. Maybe they don't. The Mayor had a line item veto, and it's gone.

Chairman Dykstra asked the line item veto is gone.

Commissioner Shaw stated gone. So I just mentioned it to you in case later somebody would say, "Well, how come that isn't in there?" I don't want you to overlook it if that's what your intent was, to have a line item veto.

Chairman Dykstra asked do you have a problem with that.

Commissioner Cook stated I would make a motion that the provisions of the 1996 Charter as to line item veto which read as follows, "The power of the Mayor to veto acts of the Board shall apply to the entire budget or any line item thereof stating the specific reasons for the objection and the proposed alternatives to the item vetoed, subject to the power of the Board of Aldermen to override. In the event of the exercise of a line item veto all portions of the budget not so vetoed shall be passed. As used herein line item shall mean any object of expenditure listed in the budget. The school department budget shall constitute a single line item. Action by the Board of Aldermen shall be completed by" and it would have the date appropriate, be added.

Commissioner Shaw asked enough verbiage.

Commissioner Cook stated and the reason is, well...if I get a second, I'll speak to it.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra asked are you trying to insert the line item veto again.

Commissioner Hirschmann asked what section is that.

Commissioner Cook stated that is Section 6.04 c). A portion of 6.04 c).

Chairman Dykstra stated okay, so there's a motion by Commissioner Cook to basically insert the line item veto. Seconded by Commissioner Tessier. Now we can discuss it.

Commissioner Cook stated I would speak to it. A veto of a budget, a veto of an entire budget of the City or an entire budget of the State is a huge thing. It's a huge thing. We've tried to let, and right up front, we all know that much of this discussion about budgets is theoretical. There's never been a default budget used. There's never been a line item veto used, but for a Mayor to be able to administer the City and have to veto an entire budget, I remember when Governor Thomson vetoed an entire State budget one time. It was an earthquake, because he objected to three things in the budget. For a Mayor to be able to specifically say to the Aldermen, "This spending plan for the City of Manchester can go through, but I object to three extra police cars and seven more firemen," or whatever...

Commissioner Hirschmann interjected bad examples.

Commissioner Cook stated well, whatever. Strike that, you know. All this pork and all that junk...

Chairman Dykstra interjected food for the hungry.

Commissioner Cook stated whatever you don't like, I object to it. And then have the debate on that subject, because that can be overridden by the Aldermen and restored, is a lot more intelligent way to go about budgeting and systems than to say you have to veto the whole thing to get your way. It's never been used. I'm not sure it'll ever be used, but it's a tool that I think a Mayor who doesn't like overspending or a Mayor who doesn't think an item is adequately spent...it's not a liberal thing. It's not a conservative thing. It's just an item that lets people talk about the issues at hand and not the entire thing ought to be allowed.

Chairman Dykstra asked Commissioner Shaw, was there a reason why you omitted it or is there a problem, why you omitted the line item veto. You just forgot to put it in? Is that what it was?

Commissioner Shaw responded yeah, the same reason I don't read minutes some times.

Commissioner Duffy stated consider it an oversight.

Commissioner Shaw stated an oversight. I have a couple of other oversights.

Chairman Dykstra stated what I'm going to do is ask for a roll call, and we're going to move the question and vote to reinsert the line item veto under the language that Commissioner Cook has put in there. We don't want to go through the whole thing, but the intent is there.

Commissioner Shaw asked can we have a voice vote, maybe.

Chairman Dykstra responded no, we're having a roll call.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Shaw, Soucy, Tessier, Wihby, and Dykstra voted yea. The motion carried.

Chairman Dykstra stated that's done.

Commissioner Hirschmann stated providing it's legal.

Chairman Dykstra stated I supported it the last time I did the Charter. School department budget.

Deputy Clerk Johnson stated next would be 6.12. I'm sorry, no. 6.06.

Chairman Dykstra asked so that wording must be exactly the same as the 1996, is it.

Deputy Clerk Johnson responded that's the same as 1996.

Commissioner Hirschmann asked can I speak to 6.06. There was great care taken to put dates in that say "first Tuesday in April" back in the other budget process and "second Tuesday of January", so I want to see that same concept put in here, that the School Department comes to the Mayor on a certain Tuesday in December or whenever. It should be stated.

Commissioner Shaw responded well, somewhere supposedly in here it says department heads are supposed to submit on a format decided by the Mayor...

Commissioner Cook interjected right here. It says it right here.

Commissioner Shaw stated I thought that applied to the School Department.

Commissioner Tessier stated it does.

Commissioner Hirschmann stated I want to go a step further. I want it stated just like it's stated in those other paragraphs the second Tuesday of December on.

Deputy Clerk Johnson stated it is. 6.03.

Commissioner Shaw stated well, the Mayor couldn't do that. I want to mention that. May I speak to that? The Mayor could not accept that the School Board present to him the budget by January x you see when he's supposed to give it to the Aldermen. The department heads...in order for the Mayor to make a budget, department heads must submit the budget when the Mayor says it shall be done. That was the intent. If you want to put here that the School Department must follow the Mayor's guidelines...

Commissioner Cook stated it says it. "The budget shall be submitted in accordance with the budget form, organization of procedures and schedule established by the Mayor."

Commissioner Shaw stated I just saw that the School Board is deciding to send the Aldermen their message now. That's wrong.

Chairman Dykstra stated it's under Section 6.03.

Commissioner Hirschmann asked it is in there. Okay because, I mean, I've been reading...

Deputy Clerk Johnson stated it makes reference. 6.03 a) and if you go back, it follows the same procedures of everybody else.

Commissioner Hirschmann stated the way I've been reading the newspaper is that this School Board does not have that done at this time, and it's late in the year.

Commissioner Shaw stated that's the fault over here.

Commissioner Hirschmann asked of whom.

Commissioner Shaw responded well, you wouldn't want me to say the Mayor, would you. I wouldn't say it out loud.

Commissioner Hirschmann stated I'm just trying to get directions.

Commissioner Shaw stated it's the fault of the Mayor for not sending instruction to the School Board that is shall do its task by day x.

Chairman Dykstra asked is that okay.

Commissioner Hirschmann responded yes.

Chairman Dykstra stated all right, so we can keep on moving on. Anything, school budget hearings.

Deputy Clerk Johnson stated 6.07 is the same language as 1996. It's consistent with statute. 6.08 is new language.

Chairman Dykstra stated 6.08. We're on administration of the budget.

Deputy Clerk Johnson stated it states that the Board of Mayor and Aldermen may provide by ordinance any additional procedures for administering the budget. You had not acted on that section previously.

Chairman Dykstra asked which one.

Deputy Clerk Johnson responded 6.08.

Commissioner Duffy stated 6.08, Madame Chair, that was amendment passed in November of 2001. Is there any reason why Commissioner Shaw dropped the last part of that which is all it does.

Commissioner Shaw asked what does it do.

Commissioner Duffy responded it drops the "including the budget of the School Department". Maybe it's superfluous.

Commissioner Shaw stated it is. It's been ruled that that's not correct. It goes on to the next one which is 6.09 where it says that departments, agencies. The School Department is a department of the City of Manchester, so it restricts their ability to do things, I thought.

Chairman Dykstra asked any other questions.

Commissioner Shaw stated the biennial budget is in there.

Deputy Clerk Johnson stated I guess the question is whether or not they want to reinsert this here. "Including the budget of the School Department" is not in his language.

Chairman Dykstra asked do you want to reinsert that, that was passed.

Commissioner Shaw responded no.

Deputy Clerk Johnson stated he doesn't want to.

Chairman Dykstra stated any further discussion on that. If there's none, is that okay? We can just go right through that. That's already been voted on anyway, so just if you want to make changes.

Deputy Clerk Johnson stated 6.09 again there hadn't been any previous actions. It's from the old Charter 6.07.

Commissioner Shaw asked are we going backwards.

Deputy Clerk Johnson stated 6.09.

Commissioner Cook asked how old.

Deputy Clerk Johnson responded the 1982 Charter. This is 1982 Charter language.

Commissioner Cook asked didn't we have that in the new one, too.

Commissioner Duffy responded no.

Commissioner Soucy asked hadn't the Commission previously adopted language mirroring State law on expenditures. It's not obviously part of this draft, but there was a previous vote of this Commission.

Deputy Clerk Johnson responded 6.09 in the new one, "no payment shall be made or obligation incurred against any appropriation except in accordance with appropriations made". 1996 is 6.09. If you read through that, there are some minor differences between the two, and I don't know where that 1996 language came from. I don't recall, and I didn't attend all those meetings, so I really can't tell you.

Chairman Dykstra stated I think Brad did it.

Deputy Clerk Johnson stated I know the Finance Officer was fine with what's been presented.

Chairman Dykstra asked do we have any problems with it because we're going to go through this, and we still have to have our public hearing, and things still can be changed, so we're still not cast in concrete here.

Deputy Clerk Johnson stated 6.10 is debt limit.

Chairman Dykstra stated "as proscribed by law as amended from time to time". Anybody have a problem with that? And then into 6.12, the audit.

Deputy Clerk Johnson stated Finance Officer, because it was put into another section, I believe. He eliminated that, but he did make reference to it someplace else.

Chairman Dykstra asked is this 6.11. What was 6.11?

Deputy Clerk Johnson stated I think we put it under the City Officers section, most of it. 3.27 in your working document that you're using refers to the Finance Officer. In there, it talks about all of the same sorts of things, the accounting controls.

Commissioner Duffy stated Carol, wouldn't you renumber these, so it's consecutive.

Deputy Clerk Johnson responded eventually.

Chairman Dykstra stated once we finish.

Deputy Clerk Johnson stated what I started doing now has already been done that way.

Commissioner Hirschmann stated 6.12 b), I'd like to amend where it says "finance committee". I'd like to say an "aldermanic committee".

Chairman Dykstra asked where are we here.

Commissioner Hirschmann stated right now he doesn't report to the Finance Committee.

Commissioner Shaw duly seconded the motion.

Commissioner Hirschmann stated to say Aldermen and Aldermanic committee.

Commissioner Shaw stated there shall be a committee of the Board of Mayor and Aldermen. That's what you want, to take out the word finance. He'd like to take out one word.

Commissioner Hirschmann stated an aldermanic committee.

Commissioner Shaw stated you don't even need to. It's a committee of the Board.

Deputy Clerk Johnson asked "and to a committee of the Board of Mayor and Aldermen at least quarterly in a format established by such committee".

Commissioner Shaw asked that's in a) or b), did you say.

Chairman Dykstra responded b). That's for the audit.

Commissioner Cook stated the internal audit.

Deputy Clerk Johnson stated so it'll be to "a committee of the Board of Mayor and Aldermen at least quarterly in a format established by such committee."

Chairman Dykstra stated okay. Anybody have a problem with that? Moved by Commissioner Hirschmann, seconded by Commissioner Shaw.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson stated biennial budgeting.

Commissioner Hirschmann stated we have that on the table.

Deputy Clerk Johnson stated we have that on the table as well, and I had new language for it at the last meeting, but then it didn't come upstairs with me this time.

Chairman Dykstra stated we can just leave it and come back to it, so make a mark on that.

Commissioner Shaw asked isn't it what you wanted here or am I mistaken.

Commissioner Hirschmann stated it was tabled because she lost it.

Deputy Clerk Johnson responded I didn't lose it. It's on my desk.

Commissioner Shaw stated I know, but what about 6.13 in here. Is that what you had liked?

Deputy Clerk Johnson stated 6.13, what Commissioner Hirschmann's issue is is that he wants to put some of the language in that the State...there's a State law regarding...

Commissioner Shaw interjected there's a reopener that you didn't have that we've put in there.

Deputy Clerk Johnson responded yes, that part we put in.

Commissioner Shaw stated that's what Finance wanted the most in your proposal was that at the end of the fiscal year that the Aldermen have 90 days, the Mayor and the Aldermen to reopen the second year. You know, it seems to me that they're the ones that should decide, but we did put a reopener in there.

Chairman Dykstra stated we don't have to act on that tonight. We can wait till the next meeting.

Commissioner Hirschmann responded it's already tabled is what I'm trying to tell you. On our agenda, we tabled that.

Chairman Dykstra stated that's right. It is. Okay, so we'll deal with that next meeting when she gets the information.

Deputy Clerk Johnson stated and I would ask that maybe Commissioner Hirschmann could come in and have a visit so we can go through that language.

Commissioner Hirschmann stated I have the minutes. I have my language exact. I'll give it to you.

Deputy Clerk Johnson responded I wanted to sit and go through it with you if I can.

Commissioner Hirschmann stated it's not going to be what Kevin Clougherty wants exactly. I'm going to draft my thing and give it to you.

Deputy Clerk Johnson stated actually, they don't want to change what's here.

Commissioner Hirschmann stated well, I want to change it, and that's why I'm giving it to you.

Commissioner Shaw asked you want funds to lapse. Isn't that what you want?

Commissioner Hirschmann stated I want the year to close out.

Deputy Clerk Johnson stated the year closes out under State statute. State statute mandates that. There is no change on that.

Commissioner Shaw stated I think you're getting what you want.

Chairman Dykstra stated next is Article VII, procurement procedures. Now where is this from?

Deputy Clerk Johnson asked fund depositories, we're all set with. I just didn't want to miss anything. There was one other issue I just thought I would let you know about. Can we back up for one second? Can we just back up to audit for one second? I just want to point out that the other difference between what you had previously approved and what currently is is that there is a provision for the auditor to be nominated by the Mayor and confirmed by a majority of the Board, and removal is by a two-thirds vote.

Commissioner Cook stated that's the internal auditor.

Commissioner Shaw stated the internal auditor, and he reports to both the Mayor.

Chairman Dykstra stated may remove upon two-thirds vote of the Board of Mayor and Aldermen. That's fine.

Deputy Clerk Johnson stated Article VII, none of this had been previously acted upon up until the last meeting. 7.01, 7.02 is from the 1996 Charter.

Commissioner Shaw stated more up to date.

Deputy Clerk Johnson stated and he dropped, I think 7.03 has been dropped from the new Charter. I should just point that out to you. There was a section dropped.

Commissioner Shaw stated in the 1982 Charter, there was a provision to... something to do with local. Are we going to insert that back?

Deputy Clerk Johnson stated well, that was the old one. He dropped...

Commissioner Hirschmann stated you got lowest responsible local bidder.

Commissioner Pepino asked are you on 7.02 now. All right, 7.02. This is the section from the 1996 Charter, and this is the section back here from the 1982 Charter. See, they took this out in 92, put this in 86, so insert this language in here.

Commissioner Shaw asked what are you talking about.

Deputy Clerk Johnson stated can I just see your highlight for a minute, and then I can tell everybody what we're sharing. 7.04 of the 1982 language that was crossed out from including "and additional preference to local vendors". Okay, that's where it is. It's in 7.04 near the end. Let's go over there and look at it. In the last paragraph of Section 7.04 in the 1982 language, there's some language in there about including special and additional preference to local vendors, contractors, labor as authorized by law, and that's what he's saying is not in Section d) now.

Commissioner Tessier asked where is that again.

Commissioner Cook stated if you look at the crossed out stuff in the old 1982 Charter.

Deputy Clerk Johnson stated page 35.

Commissioner Cook stated that's out, and it was replaced. The substance, Madame Chair, was replaced in 7.02 b) which was not included in Commissioner Shaw's draft which was the language that said the City shall not preclude which is a double negative. That was a feel-good provision that's meaningless because the fact of the matter is you can't require bids go to local people any more than you can require people to live in the City to work here. It's illegal. You can't do it. We put that in there to say we wouldn't preclude them from bidding. Well, dah. You know. Of course not.

Commissioner Tessier asked so that's illegal then.

Commissioner Cook stated you can't require a preference for them, so it's a feel-good provision.

Commissioner Pepino stated you generalized it in here. It says right here...

Deputy Clerk Johnson interjected yeah but you can't...what he's saying is that's against the law to put in there now.

Commissioner Pepino stated oh, I know that. It was against the law 20 years ago. That's where this comes from. We just took that law out, that's all.

Chairman Dykstra asked so what did you want to...what was your motion.

Commissioner Pepino responded it says "may embody other considerations". Considerations, that's all, including "additional preference to local vendors, contractors, and labor as authorized by law". That's all it says. There's nothing in there that says it's illegal. It says according to law, and according to law, you can't say well, they're local, so we'll bypass the low bidder.

Chairman Dykstra stated well, I don't think you can do that anyway, can you.

Commissioner Pepino stated you're saying give special considerations to these people. I see nothing wrong with that.

Chairman Dykstra stated so you want them to give special preference to local vendors. Okay, that's the motion.

Deputy Clerk Johnson stated he's moving to insert that language in that section.

Commissioner Tessier stated I'll second for discussion. Cause we're discussing it anyway, so I'll second it.

Deputy Clerk Johnson stated not the whole paragraph. He just wants that last section. Basically, as authorized by law. He was ending it there.

Commissioner Pepino stated can I explain where this came from, if anybody is interested. Years ago, if you remember Brad, there used to be local people. They used to give them two or three percent discount on a contract until they took it to the Supreme Court and said it was illegal. So they couldn't do that any more, so they embodied this language.

Commissioner Cook responded the advice we had in 1996 was that the language that was in the 1982 Charter continued to be illegal, but what wasn't illegal was a statement that said you can't exclude them from participating in the bidding process, and that means when you're doing the bidding process, if you try to make it such that only bidders of a certain size can bid on a project, and you don't have any bidders of a certain size in your community, you can't keep the people in your community from doing it. That's why it's stated as a double negative. I don't think it's had any effect. I think if we were taken to court, it would probably not force or not force anything to happen, but the 1982 language was affirmatively not enforceable. The 1996 language was the most we were told we could do, and I

don't remember favoring putting anything in there, but the people who said we've got to do all we can do for the locals, that was all we were told we could do which is why it was in there that way. It was an attempt to do for the locals everything you could do for them.

Chairman Dykstra stated exactly.

Commissioner Pepino stated in the 1982 Charter, it laid out procedures, and it says the Aldermen shall draft these. That's what it said. Now, when the Aldermen drafted the procedures, when it came to this one, they would not include that in the procurement code. I was there, and I tried to get this included in the procurement code, so they would leave it in the Charter, but they wouldn't put it in the procurement code. That was in 1982.

Commissioner Cook stated the Charter overrides the procurement code because the Charter is the Constitution, so if they in fact did that, shame on them.

Commissioner Pepino interjected shame on them then.

Commissioner Cook stated but that doesn't change the interpretations we got in 1996 on what we could and couldn't do in order to encourage the maximum support for local people to participate in the process. This was an attempt to do as much as we could do.

Chairman Dykstra stated I'm going to move the question. All in favor, say aye.

Commissioner Pepino asked for what.

Chairman Dykstra responded your motion.

Commissioner Pepino stated that's all I want to know.

Deputy Clerk Johnson asked did we get a second on that.

Chairman Dykstra responded yes, we got a second. Commissioner Tessier.

A voice vote was taken. The Chair was in doubt.

Chairman Dykstra stated this is basically giving consideration to local vendors.

Commissioner Tessier stated point of information, please. At what point does this get inserted? Is it just the last sentence you wanted or was it the whole thing?

Deputy Clerk Johnson responded he was talking about “embody other considerations including special and additional preference to local vendors, contractors, and labor as authorized by law”.

Chairman Dykstra stated just that part.

Commissioner Hirschmann stated that’s not a full sentence.

Deputy Clerk Johnson stated we would make it into a full sentence.

Commissioner Hirschmann asked can you make it to the motion so we understand. It’s just a half a sentence you’ve got.

Deputy Clerk Johnson responded that’s what he’s moved on. I believe what he’s trying to do is state when anything goes out to bid, when any bid is gone out, that’s the procurement.

Chairman Dykstra stated “make preference to local vendors, contractors, and labor as authorized by law”. Whether you do it or not. I mean, we had it in there before, and he wants it in there. We’re calling for a vote, so you want it, you vote for it. You don’t want it, you don’t vote for it. That’s it. We’re going to call a roll call vote right now.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Shaw, Soucy, Tessier, Wihby, and Dykstra voted yea. Commissioners Cook and Duffy voted nay. The motion carried.

Chairman Dykstra stated see, we got another vote because we went for a roll call. Maybe you should go with roll calls.

Commissioner Cook stated make it as illegal as possible. I don’t care.

Commissioner Duffy stated under legal review, it’s going to get knocked out anyway.

Chairman Dykstra stated all right, we’re moving right along here.

Deputy Clerk Johnson stated you’re still in procurement procedures. Did anybody else want to change this?

Chairman Dykstra asked did anybody want anything else in that.

Commissioner Hirschmann asked why all this stricken stuff.

Deputy Clerk Johnson responded that's the 1982 Charter. Replaced it with other language, most of it. 8.01, that is the same as what had been approved prior.

Chairman Dykstra stated establishment of rules. Any problem there? Okay, keep moving.

Commissioner Shaw stated 8.02 is gone.

Deputy Clerk Johnson stated I have not had a chance to research that. I believe that that is not consistent with what the State law requirements are.

Commissioner Hirschmann stated I move to amend 8.03.

Chairman Dykstra asked what was your amendment.

Deputy Clerk Johnson stated I have not had an opportunity to ask the Solicitor to review it, and we were going to do that.

Commissioner Shaw asked what do you want.

Commissioner Hirschmann responded you have to have a Charter...

Chairman Dykstra stated wait a minute. She was going to have the City Solicitor review it.

Commissioner Shaw stated well, I don't want a Charter Commission ever again in the history of Manchester.

Commissioner Hirschmann stated well, you don't have to run.

Commissioner Cook stated in fact, I want it in here that he won't.

Commissioner Hirschmann stated I hope you're too old to run.

Chairman Dykstra stated we're going to hold all the meetings at the local nursing home.

Commissioner Cook stated we're going to put in here that if Shaw agrees not to run, Cook agrees not to run.

Commissioner Shaw stated I promise if you don't run, I won't run.

Deputy Clerk Johnson stated so 8.03, I guess what we'll do is we will have the Solicitor look at that.

Chairman Dykstra stated the City Solicitor is going to look at that. He'll be at the next meeting, so he's got a couple of things to do for us.

Commissioner Shaw stated 8.03 always allows a Charter Commission to be done, though.

Deputy Clerk Johnson stated I believe this is inconsistent with State law.

Commissioner Shaw stated well, we know it's inconsistent with State law.

Chairman Dykstra stated the City Solicitor is going to look at it. We want to make sure we do everything right. Moving on.

Deputy Clerk Johnson stated compensation of officials. You're right in 8.04.

Chairman Dykstra stated okay, this was the language, Section 8.04.

Deputy Clerk Johnson stated this was the same as what was approved but we will note, there's a typographical error in c). It should say, the very last verbiage should say as School Committee members, obviously, not Aldermen.

Commissioner Duffy asked it should say what.

Deputy Clerk Johnson responded as School Committee members. That last sentence.

Chairman Dykstra stated it's supposed to be as School Committee. It's just a typo or whatever.

Deputy Clerk Johnson stated I just wanted to point it out.

Commissioner Cook asked where are you now.

Chairman Dykstra responded c).

Commissioner Cook asked 8.04 c).

Chairman Dykstra stated she mentioned School Committee members, then mentions Aldermen. "School Committee members shall not be entitled to any

other benefits or compensation from the City in performance of their duties as School Committee members.”

Commissioner Cook stated I have an amendment to that entire section. I defer to Commissioner Duffy.

Chairman Dykstra stated oh, you do.

Commissioner Duffy stated I amend Section 8.04 a). This is the salary of the Mayor. This amount was identified back in 1996, and to suggest that the same salary be in place through possibly as long as 2013 seems a little irregular. At one time, we had under discussion the possibility of considering tying it to some provision of other offices in the State. However, I think at least with respect to getting something on the table to suggest we need to modify it, my motion is that we would recommend the salary of the Mayor be set at \$75,000.00 which is a modest ten percent increase over what it is today. Therefore, that would be incorporated into 8.04 a).

Commissioner Cook duly seconded the motion.

Commissioner Shaw asked do we have to discuss it.

Chairman Dykstra stated well, we could vote because I mean, he mentioned ten years, but as you know, this Charter didn't go ten years from the last one, so it still can come up earlier than ten years if they wanted to, and amendments could be made. Okay, I'm going to call for a roll call vote on this. It's \$75,000.00 would be a yes vote, and if you didn't want the \$75,000.00 increase, you would vote no.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Commissioner Cook stated further amendment, Madame Chairman.

Chairman Dykstra stated okay, one moment. Five to four. That amendment is done, so you can just amend this.

Commissioner Cook stated I just want to amend Section 8.04. I would like to amend Section 8.04 by restoring the language, not making any other change but restoring the language that the Board of Mayor and Aldermen may adjust salaries for the Mayor, Aldermen and the School Committee prospectively for those elected in the next term only.

Commissioner Tessier duly seconded the motion.

Commissioner Cook stated and I'd like to speak to it, not just have a vote.

Chairman Dykstra stated yes, please do.

Commissioner Cook stated I think what we did in a long and tortured and somewhat embarrassing set of discussions about salaries got all sorts of issues homogenized and confused. We had automatic mechanisms by which changes could be made. We had benefits as opposed to people that didn't take benefits and the cost thereof. We had State mechanisms versus local mechanisms. We had all sorts of stuff. What we ended up with was in my judgement the worst, from hearing the criticisms of what we doing, the worst of all possible circumstances in the Charter. We had numbers in the Charter which people talked about not wanting to have. We had no flexibility in the Charter to make any changes. We had no ability to have anybody make a change. This only restores part of what was in the prior system. It in fact is less expensive than what we already have because it takes away the ability for Aldermen and School Committee people to have benefits. It takes away the retirement plan for a Mayor who serves for a long time because there's a certain period of time to get into it. But it puts back the flexibility in the sole discretion of the Aldermen sitting during the two year term to affect the salaries of those who would be elected in the next two year term. They can't vote on their own, but it puts in some kind of a mechanism by which the pressure cooker can be lessened. It's less power than they have today. It's certainly less power than the Aldermen and School Committee members have to self-elect a raise by electing benefits than we have today. I think it leaves us with a lot of the things that people talked about remedied but at least it allows a mechanism for change because to say that the only way these things can be adjusted and the only way public office holders can have their meager pay, and none of these people are overpaid...well, some of them are overpaid if they get a penny, but as an office, they're not overpaid. It's wrong. We've got to have a mechanism by which an adjustment can be made, and this puts that back in in the sole discretion of our elected officials, and it's not our raise.

Commissioner Shaw stated well, under Mr. Cook's proposal what would happen is that six Aldermen and a Mayor who might be leaving office could just as easily pass a raise effective the next term, okay. I find that if we're going to give the Mayor a raise, we've chosen the best method, and the Aldermen. They must go to the people and ask that the Charter be amended. That means if 50 people plus one vote yes, then the Mayor deserves his raise. We have decided a dozen times, okay, and I wouldn't trust the Aldermen going out of office. All they need is six and the Mayor to agree with that, that the pays are unfair and to increase them. The citizens would have no recourse, so I favor what we've done.

Chairman Dykstra stated you know, I agree with you there because there could be...

Commissioner Shaw interjected what we presently have constituted is what has been decided 50 times already.

Chairman Dykstra stated I understand that, but there could even be a point that probably we have a Mayor that's really not doing a very good job, and the people don't want to give him a raise, so I mean, that's their option.

Commissioner Pepino stated they say there's no mechanism now to give the Mayor and the Aldermen a raise. There is. The Aldermen can vote them any time they want to.

Commissioner Soucy stated no, there's no mechanism in this document.

Chairman Dykstra stated they could amend the Charter.

Commissioner Duffy stated the part that I agree with is that we've spent all too much time debating this, and it has been embarrassing quite honestly to listen to the discussion that's gone on. The only thing that I would concur with is to take the actual salary out of the Charter. I personally don't think it belongs in there at all, and that in fact we put in a mechanism so it comes under some sort of a periodic review because quite honestly to me it's a cop out by identifying a number in here without giving consideration for the fact that that number could be in place for 14 years.

Chairman Dykstra stated wait a minute now. There is a motion on the floor. A second. I'm going to call for a vote. Commissioner Cook had a motion on the floor to put that language back in, and we're going to now call for a vote, a roll call vote.

A roll call vote was taken. Commissioner Cook voted yea.

Commissioner Pepino asked what are we voting on.

Deputy Clerk Johnson stated restoring the language that the BMA may adjust the salary of the Mayor, Aldermen, or School Committee and it would be for the next term, not for the sitting Aldermen.

The roll call vote continued. Commissioner Duffy voted nay.

Chairman Dykstra stated if you're going to vote yes, you're going to include...you're including this if you vote yes. He's amending it to this.

Commissioner Pepino stated that was my amendment right here. You said it's already there. I said there should be a mechanism. There it is. By ordinance.

Deputy Clerk Johnson stated that's in essence what he's saying is going to go back in it. Let me read the language.

Chairman Dykstra stated well, if you want to keep it the way it is here, you vote no. If you want to change it, you vote yes. That's all.

Commissioner Soucy asked could the Clerk read the motion.

Commissioner Tessier asked the motion again please.

Commissioner Pepino stated you've got two sections here, you're talking about.

Commissioner Shaw stated Leo, listen to the Clerk, please.

Deputy Clerk Johnson stated but the Clerk is going to go to the 1996 language which is physically what he acted on, and that's what I think is best.

Commissioner Shaw stated Madame Chairman, Mr. Cook's proposal is the Aldermen should have the right to change the salary of the Mayor. If you vote yes, you wish the Aldermen to do that, right? If you vote no, you wish the people to decide.

Chairman Dykstra stated the people will decide if you vote no, and yes, it will be the Board of Mayor and Aldermen or whatever. That's why he removed it.

Deputy Clerk Johnson stated the Board of Mayor and Aldermen may determine the salary of Aldermen, School Committee members by ordinance provided that no ordinance shall take affect until the commencement of the next term.

Commissioner Pepino stated that was the motion I made...

Commissioner Shaw interjected I know that.

Deputy Clerk Johnson stated that's the motion on the floor.

Commissioner Hirschmann stated change the word term into adjust.

Commissioner Shaw stated could I ask the Clerk a question. How many Aldermen does it take to put a Charter amendment on the ballot?

Deputy Clerk Johnson responded a simple majority.

Commissioner Hirschmann stated eight.

Deputy Clerk Johnson stated no, a simple majority.

Commissioner Shaw stated seven, six if the Mayor, if it's a tie. So a salary can be put on the ballot any year that the Mayor and the Aldermen so wish.

Commissioner Tessier asked didn't we move this question about a half hour ago.

Deputy Clerk Johnson stated so we're in the middle of voting.

Chairman Dykstra stated all right, we're in the middle of voting. We're going to continue.

Commissioner Tessier stated well, he voted, and he didn't like his vote.

Chairman Dykstra stated let's carry on. We're going to continue.

The roll call vote continued. Commissioners Soucy and Tessier vote yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed. [Three yeas, six nays].

Chairman Dykstra stated okay, so it remains the same. Now, we're going to go on. Is there anything else?

Deputy Clerk Johnson stated 8.05 is new language.

Chairman Dykstra asked are we all looking at 8.05, incompatibility of offices.

Commission Duffy stated that's language right out of the 1996 Charter.

Deputy Clerk Johnson stated it's the actual language right out of the 96. I was just comparing.

Chairman Dykstra stated the library.

Deputy Clerk Johnson stated contract, that's the same as the 1996 language. Local initiative is the language from the 1982 which may or may not be the same. No, it's not the same as 1996.

Chairman Dykstra asked what isn't the same.

Commissioner Cook asked what number are we on.

Chairman Dykstra responded local initiative, 8.07.

Commissioner Cook stated that's the same as it's always been. The 1982 Charter was the same as the 1996 Charter which was the same as this.

Chairman Dykstra stated 8.08 is the oaths.

Deputy Clerk Johnson stated 8.08 is the oaths, and that obviously was changed to November.

Chairman Dykstra stated that was January 1, so we changed that now.

Deputy Clerk Johnson stated 8.09, employee retirement system is the same as the 1996 language.

Commissioner Cook stated have we checked or if we haven't checked, I think we should check and this is just a technical question on whether there have been further amendments by the State of New Hampshire which has to amend the retirement system, the City retirement system's board, have we checked to see whether there are other ones that need to be included in here as a technical matter. That's where the ones came from the last time. We asked the retirement system and the Solicitor's office...

Deputy Clerk Johnson stated we can refer that to them and the Solicitor.

Commissioner Cook stated if we could, just to see if there's any technical stuff to bring this into line with present law.

Chairman Dykstra stated it's a good idea. Retirement and the Solicitor, so if there's any new language because of new law, then we can add that.

Commissioner Pepino stated can I address this retirement.

Chairman Dykstra stated we're going to do it next time, cause he's going to check with the City Solicitor and the Retirement Board to see if there's any change in law.

Commissioner Pepino stated I'd like to explain that to you now, what's going on in the retirement system.

Chairman Dykstra asked well, who are you, the Retirement Board or the City Solicitor. Go ahead.

Commissioner Pepino stated you don't want to know.

Chairman Dykstra responded of course I do. Go ahead.

Commissioner Pepino stated I put a bill in this year for the Retirement Board, and what it did was transferred our system to the State system, and they all met and got together, and they didn't have a vote in time for the bills, so I pulled it, so all we were waiting for them to do was vote, for the membership to vote to go to the State. We were going to put the bill back in and do it. Other laws I don't know, but that's the way the retirement system stands now. Any new laws.

Commissioner Cook stated my question, Commissioner Pepino, is whether there have been any laws passed since 1996 till today that should be referenced in the Charter because they would make the Charter current. We have no...I don't know anybody that wants to mess with, other than the Governor, that wants to mess with the retirement system. We certainly have no power to amend the retirement system.

Commissioner Hirschmann stated move it to the research.

Chairman Dykstra stated City Solicitor and Retirement Board is going to look at it.

Deputy Clerk Johnson stated I'm going to report back.

Chairman Dykstra stated now we're going to move on to what 8.10, pension. That will go with the two. City Solicitor for pension and the Retirement Board. Then we're on to separability.

Deputy Clerk Johnson stated seperability, 1982 and 1996 is the same language. 8.12.

Chairman Dykstra stated veterans recognition. We want to keep that in. I had something that I wanted to propose an amendment.

Deputy Clerk Johnson stated Charter enforcement.

Chairman Dykstra stated I want to propose an amendment. Now we do have this in here. We had talked about putting in the Charter enforcement provision. I can even actually pass this out to everybody. I'm making a motion to move on this amendment for 8.15.

Commissioner Hirschmann stated I thought I already did that.

Chairman Dykstra responded no, I had done that.

Commissioner Cook stated we substituted this for everything we did.

Chairman Dykstra stated we couldn't find it, remember. We couldn't find it so I put that in, but we made some changes. Like in the event that there is an allegation or violation of Charter or failure to follow its provisions, such allegations shall be referred to the Mayor. It used to be the Mayor, and I put in the City Solicitor to make it less political.

Commissioner Shaw asked this is under 8.15.

Chairman Dykstra responded 8.15. It's b). And the City Solicitor shall review the allegation with the official or officials involved and report any findings to the appropriate authorities consistent with the provisions of subsection c) below within 60 days, and that was the part that we all supported. Who was it? It was Kevin Clougherty that brought that forward. That was the penalty part, so that's all the same.

Commissioner Pepino stated Madame Chairman, if you remember when Kevin asked for penalties, he referred to this RSA. His penalty was greater than that.

Chairman Dykstra responded no, it was \$500.00. This is the exact wording that you were looking for, and we all voted on, but we couldn't find.

Commissioner Hirschmann duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated the other thing. We'll wait till we get the other one. That's just two little words.

Commissioner Shaw stated standards of conduct. Aren't you going to do something?

Chairman Dykstra stated we want to go in order, so that part did pass, and now we're on 9.01.

Commissioner Duffy stated Madame Chair, under 9.02, family members, 9.02 b), just for a point of clarification on a city official, Mayor, Aldermen, member of School Committee, and Commissioner of Welfare.

Chairman Dykstra stated that was in there.

Deputy Clerk Johnson stated it was there. Do you want to leave that there?

Commissioner Duffy stated I was thinking it shouldn't be included.

Deputy Clerk Johnson stated it's no longer a City official.

Commissioner Duffy stated Commissioner of Welfare would come out.

Deputy Clerk Johnson stated so, we're going to strike that.

Chairman Dykstra stated and I wanted to and I have it on there, I wanted to amend Section c) because this doesn't address parents or siblings. So if you're on the Board and you could put your mother on or your father on something or you could put your brother or sister on. It only addresses spouse, children, spouses of children, step-children and spouses of step-children.

Commissioner Shaw asked that means you can't do what.

Chairman Dykstra responded that's basically a...that would be definitions, standards of conduct.

Commissioner Shaw stated let me give you an example, so that way maybe you could answer maybe what it means. The Mayor is entitled to appoint five people to the Housing Authority. It's not reviewable by the Aldermen or anybody else to the best of my knowledge. One comes up a year, and somebody appoints it. So can the Mayor not appoint any one of those relatives?

Chairman Dykstra stated these are conflict of interest. These would be conflicts of interest, immediate family, financial interest, personal interest.

Commissioner Hirschmann stated that's correct.

Commissioner Shaw asked the Mayor couldn't do that, even though he's allowed to appoint anybody that he wishes.

Commissioner Cook stated of course, he could appoint it. Of course, he could appoint it. That's not what this is about. This is not about who you can appoint. It's got nothing to do with who you can appoint.

Chairman Dykstra stated it's a conflict of interest.

Commissioner Cook responded no, it's not. It's an undisclosed financial interest. That's what the conflict of interest talks about. If there's a voluntary board...

Chairman Dykstra interjected no, it isn't. Declaration of policy. "Honest government, ethical conduct, the avoidance of conflicts of interest and public perception of ethical and honest conduct of public affairs are essential. This code is adopted to further these purposes." So these are the people. These are the definitions that are in conflict.

Deputy Clerk Johnson stated conflict of interest to me would say no City official shall participate in the decision making process in any manner in which the official or member...

Commissioner Cook interjected all right, so you can't vote on it.

Deputy Clerk Johnson stated so what he's saying is so he also could not appoint.

Chairman Dykstra stated I just wanted to add parents and siblings. That's all I did was added parents and siblings.

Commissioner Shaw asked you really believe that, that the Mayor cannot appoint a member of his family. I didn't know if it said that.

Chairman Dykstra stated because we left it out. We only had spouse and children.

Commissioner Shaw stated I'm not saying it's a good idea, but I'm just saying you're saying that he can't.

Commissioner Hirschmann stated he would have a conflict, and he'd be in violation of the Charter.

Commissioner Shaw asked why would he be in a conflict.

Commissioner Hirschmann responded because it says it right there.

Chairman Dykstra stated it's basically honest ethical government, these people would be in conflict. If you have a personal interest and you vote on something that's going to give you some personal gratification other than someone else, it's a conflict.

Commissioner Shaw stated that's separate from appointing somebody to something. No, no, I'm not trying to argue. All I'm saying to you is that your intent that, and it says it for sure, that the Mayor can't appoint his spouse, like Mayor Mongan appointed his spouse to be his secretary. It's totally within his purview to appoint anybody he wishes to be his secretary, but you say that a spouse, a niece, or whatever can't be.

Chairman Dykstra responded no, I didn't put that in. I just added two words to what we already have there, parents and siblings.

Commissioner Cook stated you just added to the definition of who the people were.

Chairman Dykstra stated that's exactly right, but when you have someone in your office, aren't they an employee and you're hiring them?

Commissioner Cook responded not if you don't pay them.

Commissioner Shaw asked what if you did pay them. What if Mongan paid his wife? Is that wrong?

Chairman Dykstra stated if you don't want to add parents and siblings...you put that in there. That's yours.

Commissioner Shaw responded I just copied it.

Chairman Dykstra stated this is your document, Commissioner Shaw.

Commissioner Shaw responded no, no. I didn't think...Commissioner, I just didn't think that...I thought we didn't want anything hidden, so if the Mayor appoints his wife, but he doesn't tell anybody he's married to her, that would be a sin.

Chairman Dykstra stated oh, please.

Commissioner Shaw stated but you know who the Mayor's wife is. You know that he appointed her secretary. Are you saying that he can't do that? That's all I'm asking.

Chairman Dykstra responded well, I'm asking you. Is that what your intent was when you wrote this?

Commissioner Cook stated clearly, and I apologize, clearly it says the Mayor cannot appoint his wife, clearly.

Chairman Dykstra stated I mean really. Isn't that kind of a conflict to you?

Commissioner Shaw responded no, no it's not a conflict at all, as long as it's known.

Chairman Dykstra asked moving on, do you support adding parents and siblings. Okay, I have a second on this. All in favor, say...

Deputy Clerk Johnson stated wait. We're adding parents and siblings.

Commissioner Cook stated I guess I have a question. At some point, as a practical matter because there are several State statutes that go to conflicts of interest and there's a difference between if you've got a 50 year old person, and the 50 year old person has been in an independent business in the City for a long period of time, and the 50 year old person has a 50 year old sibling who's been in a separate line and wants to serve the City as well, there aren't a lot of siblings of any given Mayor, and under this Charter, we've pretty well limited appointment to the Mayor and voting to confirm the Alderman or whoever else had the sibling wouldn't be able to vote on it, so that's not a big deal, but I wonder when we're talking about upstream, the parents, when we're talking about spouses of children, if we're not getting kind of far afield in terms of making an absolute prohibition. It's either right or it's wrong. It certainly should be disclosed. When you're adding parent, I'm talking about the things you're adding.

Chairman Dykstra stated this is just a definition.

Commissioner Cook stated but in your definition, when you're adding people to it...

Chairman Dykstra stated I didn't put spouses in is what I'm saying. I just put parents and siblings. Spouse is already there. I just put parents and siblings. That's all I added. Spouses were there, and I think you probably...is this basically...now what Charter is this from.

Commissioner Cook responded this is only the 1996.

Chairman Dykstra stated well, I remember when we did the 1996 that I wanted that in and then I saw that it wasn't in. You supported all of this.

Commissioner Cook stated well, I voted for it.

Commissioner Shaw stated I voted against it.

Chairman Dykstra stated you can vote against it all you want.

Commissioner Shaw stated the only thing I'm saying is that I thought that disclosure is what we were looking for versus action. Action means that everybody is upset that the Mayor did something, but they know it, up front. So that's disclosure.

Chairman Dykstra stated just to clarify, then we're going to move on this. It doesn't matter to me either way.

Deputy Clerk Johnson stated he could, but he would have to follow the law of conflicts.

Chairman Dykstra stated right now, this is a definition of immediate family. So you're telling me that the spouses of step-children are more of an immediate family than a parent or a brother or sister. So that's what you're telling me.

Commissioner Shaw stated Ma'am when it comes to this here, I know that I put it in here because it was in the 1996 Charter, but Commissioner, I put it in here because it was in the 1996, and people tended to want a conflict of interest, and I had no preference. Now, I'm only asking for definitions. I'm not saying that it should be here.

Chairman Dykstra responded well, that's what it is. It's just that immediate family...so you want to keep spouse, children.

Commissioner Shaw stated I guess it's under Section 9.03 that I'd be more concerned. No City officials. Now if City official was a Mayor, then I'd be opposed to this.

Chairman Dykstra stated this is just a definition. I'm going to move the question. Should we remove step-children and all that stuff, and why don't we just omit immediate family? I mean, what's the difference? I don't understand if you can

consider, and it doesn't make any difference to me. I just put it in to just clarify it, so we could basically include them.

Commissioner Duffy stated point of clarification. Are you including parents and siblings in this language in c)?

Chairman Dykstra responded with spouse and children, yeah.

Commissioner Duffy stated spouses of children is already there. I'm asking what are you adding for your amendment.

Chairman Dykstra responded parents and siblings.

Commissioner Duffy stated parents and siblings.

Chairman Dykstra responded right.

Deputy Clerk Johnson stated the last item on your sheet.

Chairman Dykstra stated parents and siblings because I felt they were more of an immediate family. I thought it was more of an immediate family than even step-children would be, but...okay, let's move the question either way. If you're in favor of adding parents and siblings, vote yes. If not, vote no.

Commissioner Hirschmann stated it doesn't affect me. I don't have any parents or siblings. I'm okay with it.

Commissioner Cook stated well, my mother doesn't live here.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted yea. Commissioners Soucy and Tessier voted nay. The motion carried.

Commissioner Cook stated the issue that came up the last Charter, and the reason we started with it being this broad and no broader and defined City official as the elected officials was to see whether this was a good concept that would go forward, and the big debate that came up at that time was whether this should also apply to appointed officials, and if to appointed officials, well department heads employ people, and there was a debate and I think a legitimate debate at that time on how restricted this should or shouldn't be, and I think when the committee came back to us, they said City official means and it would be broader than this. It got restricted to those who were elected to see how it worked. The question I think that's a legitimate interest that should be considered by this Commission

before we move forward is whether department heads should be added to this group. I wouldn't go farther than that I don't think because we have rules and regulations, Human Resources rules. The question is whether somebody thinks department heads ought to be added to this.

Commissioner Hirschmann stated officers and department heads.

Commissioner Cook stated whether officers and department heads should be added to the definition.

Commissioner Hirschmann stated I would second that motion.

Commissioner Cook stated that wasn't a motion. That was just a question.

Commissioner Hirschmann stated I'll make the motion then.

Commissioner Shaw stated could I make an amendment, to under Section 9.03.

Deputy Clerk Johnson stated you've got a motion on the floor. Let me get that one down first.

Chairman Dykstra stated Commissioner Hirschmann is making a motion for Section b).

Commissioner Hirschmann stated Section b) to add department heads and officers. Kevin Clougherty gave us testimony early on that we should do that.

Commissioner Pepino duly seconded the motion.

Commissioner Shaw stated but taking out Commissioner of Welfare.

Commissioner Cook stated because that's a department head now.

Deputy Clerk Johnson stated that would now fall under department head anyway. So that's Commissioner Hirschmann by Commissioner Pepino.

Chairman Dykstra stated that would be department heads, Mayor, Aldermen, member of School Committee and that's it. And officers. All right. Did I have a second on that?

Deputy Clerk Johnson stated yes, Pepino.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Shaw stated can I make an amendment to Section...are we moving forward.

Chairman Dykstra stated just wait till we get the vote.

Deputy Clerk Johnson stated he's got another amendment.

Chairman Dykstra stated that's fine. That's amended. Go ahead, Commissioner, with your amendment.

Commissioner Shaw asked are we moving forward to 9.03. Under b), appointment or employment of immediate family members. And I would like to say that no department head or City officer shall participate instead of no city official shall participate.

Commissioner Cook stated we just added that to the definition of City official.

Chairman Dykstra stated that's in there. We added that.

Commissioner Shaw stated yes, but I'm just saying to you that I wanted to take out no city official. I wanted to take those two words out and substitute in their place that no City department head or City officer...

Commissioner Hirschmann interjected don't delete. Add to it. Don't delete that.

Commissioner Shaw stated well, you see, the dilemma is that you have certain rights as...I'm only trying to defend the Mayor's rights. I'm not trying to defend the Aldermen. I'm trying to defend...that if you give the Mayor the power to do certain things and then you go to another section, you take the power away. I mean, especially when it comes to the Housing Authority. It's just a coincidence here, but if you go to the Housing Authority, the federal government gives the Mayor the right to do certain things.

Commissioner Hirschmann stated you'd give the Mayor the authority to appoint a family member to...

Commissioner Shaw interjected all five, if I could get away with it.

Chairman Dykstra asked what was your amendment, please. Just give me your amendment. Clarify what your amendment is.

Commissioner Shaw stated it's not going anywhere. I'll give you the definition though. It says a City department head or City officer shall not...oh, excuse me. No City department head or City officer shall participate in any way in any decision to employ or appoint any immediate family member as described above.

Chairman Dykstra stated your adding department head in 9.03, Section b).

Deputy Clerk Johnson stated no. You've already done that. He's removing no City official.

Commissioner Shaw stated I'm taking out no City official.

Chairman Dykstra stated I thought he was putting it back in.

Commissioner Shaw stated and adding department head and City officers.

Deputy Clerk Johnson stated which you've already added.

Commissioner Shaw stated but, it's clearer under b). The highway department can't insist that somebody...

Commissioner Cook stated I'm not speaking in favor of what you're saying, but wouldn't it be an easier way to say what you're trying to say no City official other than the Mayor shall participate in any way.

Commissioner Shaw stated well, that would be kind. I think that is correct.

Chairman Dykstra stated we're going to get the motion together here, so we'll understand it.

Commissioner Shaw stated I'll change my mind. Please.

Chairman Dykstra stated you're changing your mind. Okay.

Commissioner Shaw stated while the press is here, I'm changing my mind. No City official except the Mayor shall participate in any way in any decision to employ or appoint any immediate family member.

Commissioner Hirschmann stated so, everyone has got to be ethical but the Mayor.

Chairman Dykstra stated but the Mayor.

Commissioner Shaw stated right up front.

Chairman Dykstra stated oh, please. You're kidding. You're kidding, aren't you?

Commissioner Shaw stated I think that the Mayor has...what if the Mayor really and truly believes and can get the six votes. No, he gets the six votes of the Aldermen to appoint his brother-in-law to be Finance Director. What's the problem? What is the problem?

Commissioner Hirschmann stated it's a problem.

Chairman Dykstra stated well, let's wait. You made the motion. Do we have a second?

Commissioner Shaw stated there's no second. Forget about it. Move on. Let's hope Mayor Mongan doesn't want to bring his new wife back.

Chairman Dykstra stated ethical government, Bob, ethical government. Okay, where are we now? No second. Section 9.04, Conduct Board. Now this came right out of the new Charter.

Deputy Clerk Johnson stated the 1996 Charter language. 10.01...

Commissioner Shaw stated could we hold the transition before we...cause I'd like to give the committee a couple of changes that I thought would...

Commissioner Hirschmann asked did you do Conduct Board.

Chairman Dykstra responded yeah, that's all gone through.

Commissioner Shaw stated Madame Chairman, would that be possible to give each person a copy of a few amendments I would like to make before we go to transition.

Chairman Dykstra asked where are the amendments, Commissioner.

Commissioner Shaw stated I have them right here.

Chairman Dykstra asked I mean, what sections are we looking at.

Commissioner Shaw stated well, first Section 2.02 way back. This was brought up at the last meeting. I want to pass them out first.

Chairman Dykstra asked okay 2.02 and which part here.

Commissioner Shaw stated just basically Commissioner Cook brought to my attention at that meeting that if one party was the only party elected, there couldn't be any Vice Chairman, and therefore I had suggested...

Chairman Dykstra interjected that's true too. That's a good point.

Commissioner Shaw stated that based on his comment that the Mayor would make those two appointments.

[Commissioner Shaw handed out his sheet of five amendments to Commissioners.]

Chairman Dykstra asked what if we've got 11 of one party and one of another.

Commissioner Tessier asked what's with the change of heart on amendment five.

Commissioner Shaw responded Mr. Cook again. What is the amendment five? Tell me.

Commissioner Tessier stated that's extending the 6 o'clock meetings.

Commissioner Shaw stated I thought he had made a good point. All right. Don't go any further than that, that he made a good point.

Commissioner Cook stated just that one time.

Commissioner Shaw stated no, you made two or three.

Deputy Clerk Johnson stated he's on amendment number one.

Commissioner Shaw stated there being no Vice Chairman, this is only a suggestion. Since there wasn't any minority party because the Vice Chairman must be in a party different than the Chairman is what I had written there, so the idea of this was when there are 12 of one party, then the Mayor makes the final two appointments to the committees. It's not meant to do any more than the intent, except there's nobody. Who's going to be the Vice Chairman? Who's going to be the Vice Chairman if we've...I'm not saying if there's one minority party. The Mayor doesn't get to make the appointments, but if there is zero minority party, the Mayor makes the appointments.

Chairman Dykstra asked what if you had 11 of one and one of the other. That one is the Vice Chair?

Commissioner Shaw responded the Vice Chair because he has to be of the opposite party.

Chairman Dykstra interjected what power.

Commissioner Shaw stated I mean he can appoint whoever he wants from the Board of Aldermen. It doesn't have to be from his party.

Commissioner Hirschmann asked what if an independent gets elected.

Commissioner Cook stated then the independent is the minority party.

Chairman Dykstra stated all right, we kind of understand what this is. Did we have a second to this?

Commissioner Cook duly seconded the motion.

Chairman Dykstra stated Commissioner Duffy is not here. We'll take a vote on this since there's no further discussion.

Commissioner Cook stated I think, to be fair to Commissioner Shaw, even though I don't like his provision that has Chairman and Vice Chairman and they appoint stuff, the fact of the matter is...

Commissioner Pepino interjected I don't like that either.

Commissioner Cook stated well, and we can revisit that, but the fact of the matter is if in fact that happened, which is unlikely, but if in fact that happened, you'd have to have a mechanism in the Charter other than, "Gee whiz, it's not covered," to cover it, and I think that's what he's saying.

Chairman Dykstra stated that's no problem. We'll just have to go for a vote here, but we don't have...

Deputy Clerk Johnson stated you can call for a voice vote.

Chairman Dykstra called for a vote. The motion carried with Commissioners Hirschmann and Pepino duly recorded in opposition and Commissioner Duffy absent.

Chairman Dykstra stated let it be noted that Commissioner Pepino and Commissioner Hirschmann are opposed. The motion carries. Let's move on to the next one, Commissioner.

Commissioner Shaw stated amendment two is basically the...one and two are the same, aren't they Carol.

Deputy Clerk Johnson stated well, two you're saying that the Mayor is going to choose the two members if there's no Vice Chairman.

Commissioner Shaw stated so this wording needed to be changed but basically in our first vote, we decided.

Deputy Clerk Johnson stated but you still have to move to change that wording.

Commissioner Shaw stated amendment number two, I'd ask that that replace the section in the new revised Charter that we have.

Chairman Dykstra stated so you're adding...

Deputy Clerk Johnson stated he's adding the bold language.

Commissioner Shaw stated I'm just putting in the language that we discussed a moment ago, the same exact language that we discussed. The first one was why we would do it. The second one is we're doing it.

Commissioner Cook duly seconded the motion.

Chairman Dykstra stated I'd like to wait for Commissioner Duffy, I don't know.

Commissioner Hirschmann stated discussion. I'd like to eliminate the Vice Chairman. I'd like to make that as an amendment.

Commissioner Pepino stated I'll second that.

Deputy Clerk Johnson stated that's an amendment to the motion.

Commissioner Shaw stated that would give political...

Commissioner Hirschmann responded no, it would give credence to your idea. It would give the Mayor the other appointments. That's your idea.

Commissioner Cook stated I just want everybody to know that after we're done talking about the subject, I'm going to make a different motion on kind of a global change to this.

Chairman Dykstra stated all right, Commissioner Duffy if you want to vote, you can. It was six to two, yes, in Section 2.02, if you read that.

Commissioner Duffy responded I'll pass.

Chairman Dykstra stated we're on the second one, Commissioner Duffy where it's in bold print. That was the next amendment. Do you have any discussion or any comments on that second amendment?

Commissioner Duffy asked on which one now.

Chairman Dykstra responded on the second one. Yes, amendment two, Commissioner Shaw's amendment.

Commissioner Shaw stated when there's one party in charge, then the Mayor makes the appointments.

Commissioner Pepino asked what if the Mayor is the same party.

Commissioner Shaw responded Leo, you could put all kinds of conditions on. If the Aldermen are all 12 from one party, then there is no Vice Chair elected and therefore the Mayor makes the appointments that the Vice Chair would make. It's just to clear up...

Commissioner Duffy stated if it's felt that it's necessary.

Chairman Dykstra called for a vote. The motion carried with Commissioners Hirschmann and Pepino duly recorded in opposition.

Commissioner Hirschmann stated I just don't believe in a Vice Chair.

Commission Pepino stated me, neither.

Commissioner Shaw stated I don't know why you don't believe in it. We have it in our federal government. We have it in our State government.

Deputy Clerk Johnson asked did you want to entertain his motion to eliminate the Vice Chair altogether or not.

Chairman Dykstra asked do you have to go into Section 2.02.

Deputy Clerk Johnson stated you have to go back to 2.02.

Chairman Dykstra stated let him finish his.

Commissioner Shaw stated can we go now to my amendment number three.

Commissioner Duffy asked amendment number two has passed.

Commissioner Shaw stated yeah, we think so because he's going to make a general amendment.

Chairman Dykstra stated so, you changed that...

Commissioner Shaw stated I listened to only on TV. I'm going to get rid of my cable. Commissioner Cook made a concern at the last time that there is no provision in the Charter for the Aldermen or the School Board, and he asked the City Solicitor that, can they stay longer than six o'clock or somebody did. The answer was no, so I thought if the Board unanimously voted to stay longer than six o'clock, they ought to have the right to do it.

Chairman Dykstra interjected unanimous is quite a bit. That's all 12.

Commissioner Cook stated almost all of them.

Commissioner Shaw stated but it's only of those present. It's not unanimous of those elected.

Commissioner Duffy stated may I ask for a clarification. There's a presumption on Commissioner Shaw's part that the meeting started before six o'clock.

Commissioner Shaw responded I'm praying. Well, it would have to start at five of six. Why would they do away with the intent? I looked at the make-up of the Board, and I found that you're going to get rid of more people by going from 14 to 12 than you probably will going to daytime of the Board. There are two men going to go right off the bat. No, two Aldermen are going right off the bat if the answer is 12. Gone, and a majority of the Aldermen left are going to be able to stay because they don't have jobs.

Chairman Dykstra stated we don't have a second. All right, there's no second to your motion, so I mean, if you don't have a second, then it actually stays the same unless there's another motion.

Commissioner Shaw stated I have no problem.

Commissioner Hirschmann asked can I make a motion to delete the six p.m. entirely from the Charter. I just don't think a provision like that...

Commissioner Tessier interjected you voted for it.

Commissioner Shaw stated then move for that. I have no problem.

Commissioner Hirschmann stated I'm moving. I just said I make a motion to eliminate...

Chairman Dykstra stated he can make a motion. He can even reconsider because he voted in the affirmative.

Commissioner Duffy stated now all of a sudden, we've got religion on this question.

Commissioner Shaw stated I hope he has five votes to pass the Charter.

Chairman Dykstra stated we can't say there wasn't changes made in this Charter by all of us.

Commissioner Shaw asked you do have five votes to pass the Charter, don't you.

Commissioner Pepino duly seconded the motion, stating to eliminate the 6 p.m. language.

Deputy Clerk Johnson asked and that would be in both the Board sections and the School Committee sections as well.

Commissioner Hirschmann responded well, I wouldn't want to torture just the School Committee. Yes.

Commissioner Duffy stated apparently he reads the paper.

Chairman Dykstra stated any other discussion on this. You going to have discussion?

Commissioner Shaw stated you know there was a...it's kind of germane to this, and I was thinking of the Flat Earth Society you know where there was an editor of a paper from Spain who felt that only way when you traveled West was if you

reached the edge, you fell off. Okay. It proved to be wrong just the same that it proved to be wrong that nighttime, nighttime meeting produce a better government. I have the mathematics here to show you that the Board of Mayor and Aldermen over the x point of time have overspent the average citizen's ability to pay for this government. Daytime government. There's one reason, one reason only to have nighttime government. There are a thousand reasons to have daytime government. Now, I have no problem. If you're in the Flat Earth Society, and you're afraid that the when you sail West, you know where the sun sets, that you will fall off, I can buy that.

Chairman Dykstra interjected I wish I could fall off somewhere.

Commissioner Shaw stated I have no problem. If the Commissioner has five votes, I favor...

Commissioner Hirschmann stated here's my rationale for this. I really want public testimony in the new Charter. I want it stated in the Charter. Having daytime meetings is detrimental to having the public come down to City Hall. Most people, Bob, work.

Commissioner Shaw interjected they don't. They don't, Alderman.

Commissioner Hirschmann stated that's a fact of life. Most people work, and after hours, they come down and participate in government. That's how government is run.

Commissioner Shaw stated Madame Chairman could I respond to him. The last meeting of the Board of Mayor and Aldermen under your proposal, okay, where the public had a right to come here and testify, the whole thing was over in 15 minutes.

Commissioner Hirschmann asked so what's the problem.

Commissioner Shaw responded my problem is that you're trying to run the government for 15 minutes worth of fame by somebody on public television when in reality, sir, you should run the government for the benefit of the taxpayers. If the State can do it, if the federal government can do it, then I promise you, if the county government can do it, but I have no problem because it's critical in taking this vote, it is imperative that there be five votes to pass the Charter, there be five votes. If there are five votes to pass, and you'll get eight to pass your amendment easily, but you might not get five to pass the Charter. So there.

Commissioner Hirschmann stated I want to speak to that. You know, I'm tired of being used as a human shield in this Charter.

Commissioner Shaw interjected you're not being used for it.

Commissioner Hirschmann stated this Bob Shaw Charter, it's all or nothing. You said we could do amendments. I'm making an amendment for the people of Manchester. I'm tired of your baloney.

Commissioner Shaw stated you have a right to make amendments. I have no problem with that.

Chairman Dykstra stated all right, we're not going to argue here tonight. Okay. All right.

Commissioner Cook stated call the question.

Commissioner Shaw stated I said it would be eight to one.

Deputy Clerk Johnson asked do you want a roll call on that.

Commissioner Hirschmann stated if you're going to go back on your word again, go ahead. You told the Concerned Taxpayers the other night, you were going to do certain things. I was there.

Commissioner Shaw stated Alderman, have your five votes in a row.

Chairman Dykstra stated all right. That's enough. What we're basically looking at...Can you clarify what this amendment is here?

Deputy Clerk Johnson stated the motion on the floor is to eliminate the 6 p.m. restriction for both the Board and the School Committee meetings.

Commissioner Hirschmann stated one small amendment.

Chairman Dykstra asked who was it seconded by.

Deputy Clerk Johnson stated it was seconded by Commissioner Pepino.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Soucy, Tessier, Wihby, and Dykstra voted yea. Commissioner Shaw voted nay. The motion carried.

Commissioner Cook asked you got other technical amendments before I make my global amendment.

Commissioner Hirschmann asked are there any more amendments he wants to do.

Deputy Clerk Johnson stated yes, he does. There's one more amendment.

Commissioner Cook stated he apparently doesn't want to make it. Do you want to make them before or are you done?

Commissioner Shaw stated there's no advantage. He's already made that.

Commissioner Soucy stated no, no, no, number four. Number five was the six o'clock. Number four was appointing authority.

Commissioner Shaw stated no, no, I wouldn't bother with it.

Commissioner Cook stated I would like to make a motion, Madame Chairman, to delete the provisions in this Charter that allow either the Chairman or the Vice Chairman to appoint members of committees of either the Aldermanic Board or the School Committee, to restore the power of the Mayor to name the membership of all committees, special and standing.

Commissioner Tessier duly seconded the motion.

Commissioner Hirschmann stated testimony on that. Your technicality was special and standing? Under the rules of the Board now, special committees are done by the Chairman.

Commissioner Cook stated the Charter that he passed had the Chairman which was the majority party person appointing three and the Vice Chairman appointing two and the Mayor appointing none. My motion is to restore the Mayor's power to appoint all members of committees, both standing and special. So it eliminates the provisions of having appointive powers on committees for the Chairman and Vice Chairman of the Aldermen and the Chairman and the Vice Chairman of the School Board, the Chairman of the School Board being the Mayor.

Commissioner Hirschmann stated I like that, but I want to ask an amendment. Would you amend it to the way the Board exists now where the Chairman of the Board now appoints the special committees. The Mayor appoints all other committees.

Commissioner Cook stated I think that's inconsistent, but in the interest of harmony, I would accept that, yes.

Chairman Dykstra asked so now, you're still keeping Chairman and Vice Chairman. You're still keeping those positions?

Deputy Clerk Johnson responded no.

Chairman Dykstra asked you're eliminating a Vice Chair. What are we doing?

Commissioner Cook responded I eliminated the power to appoint. I suppose I would also accept eliminating the position of Vice Chairman. I am specifically not trying to eliminate the position of Chairman of the Aldermanic Board or the Vice Chairman of the School Committee as they presently exist. I think they have a function, but the Vice Chairman of the Aldermanic Board which was new, I think the only function that person had was to do the appointment of two, and I would get rid of it, and I would accept in the interest of harmony Commissioner Hirschmann's special committee for the Aldermanic Chairman. To put it real simply, I want to restore the present system.

Deputy Clerk Johnson stated I know what he's doing. It's standing committees that he's referencing.

Commissioner Hirschmann stated I'll second that. I'll second it if it's as it exists now.

Chairman Dykstra asked so the Mayor is going to appoint the standing committees.

Commissioner Cook stated the Mayor names the standing committees.

Deputy Clerk Johnson stated we would not put in there the Chairman of the Board. It would be subject to the rules of the Board, so they adopt their own rules. They can change that. They adopt that rule.

Commissioner Cook stated that's fine. I'm trying to put back the system as we have it instead of this new three from column a, two from column b.

Commissioner Duffy asked may I, for clarity, are we looking at language that was in Section 2.01 on page two under Board of Mayor and Aldermen, a new section that identified appointment authority. General powers and duties. So you're amending that language there, Brad, as I understand it.

Commissioner Cook responded that is correct.

Deputy Clerk Johnson stated it'll say then there shall be...

Commissioner Cook stated the Mayor shall have the authority...

Deputy Clerk Johnson stated you've got to start out with the five members because you're not changing the five members.

Commissioner Cook stated yeah, except this says the Board of Aldermen shall appoint. That's not what I'm saying.

Deputy Clerk Johnson responded no, you changed that to say, "There shall be five members." You've already changed this language.

Commissioner Cook stated that's fine. You're the drafter. There are going to be five members of committees. The Mayor will name the committees. The Chairman of the Board of Aldermen names the members of the special committees. The Mayor names the members of the School Board committees. There is no Vice Chairman of the Aldermanic Board.

Deputy Clerk Johnson stated which is in another section, but yeah, okay.

Chairman Dykstra asked is this all in this motion.

Deputy Clerk Johnson responded yes.

Chairman Dykstra asked so eliminate the Vice Chair, that's all in there.

Deputy Clerk Johnson responded he's eliminating the Vice Chairman. He's giving the Mayor back his appointing authority to appoint all members of standing committees.

Commissioner Hirschmann interjected if you believe in a strong Mayor, that's the way to do it.

Deputy Clerk Johnson stated you're leaving that all committees of the Board regardless of whether they're special or otherwise for the five members. The Chairman of the Board appoints special committees. At the School Board level, you're changing that so that you'd still have your five members, but the Mayor appoints all of them. You're still leaving the Vice Chair for the School Board because he's Chairman.

Chairman Dykstra asked but there's no Vice Chairman of the Aldermanic Board.

Deputy Clerk Johnson responded because they have a Chairman. The Mayor is the Chairman of the School Committee, that's the difference.

Chairman Dykstra stated then on the Board of Mayor and Aldermen, there's no Vice Chairman, but there's going to be a Chairman of the Board. So, the Mayor is going to appoint all Aldermanic committees.

Deputy Clerk Johnson stated all standing Aldermanic and School committees, yes.

Chairman Dykstra asked does everybody understand. If there's no further discussion, we'll call a roll call vote.

Deputy Clerk Johnson asked that was Commissioner Cook by who seconded the motion.

Commissioner Cook stated Commissioner Hirschmann. I don't remember.

Commissioner Tessier stated I seconded it.

Deputy Clerk Johnson stated Commissioner Tessier had seconded it first. Is that okay?

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Soucy, Tessier, and Wihby voted yea. Commissioners Shaw and Dykstra voted nay. The motion carried.

Chairman Dykstra stated we're going to go for another 15 minutes if that's okay. If we have everything...let's see where are we now. I'll accept a motion to adjourn. That's up to you. I didn't know if there was anything out there.

There being no further business to come before the Commission, on motion by Commissioner Soucy, duly seconded by Commissioner Cook, it was voted to adjourn.

Respectfully submitted,

Deputy City Clerk

Approved for Commissioner: _____
Donna M. Soucy, Secretary